

the children of school-going age, we find that 79·6 per cent. boys of such age were at school, as against 21·5 per cent. in British India; while the percentage of girls was 47·6, as against our 4 per cent. only. The total expenditure on primary schools in Baroda in 1909 was about 7½ lakhs of rupees, which gives a proportion of about 6½*d.* per head of the population, as against one penny in British India. The population of Baroda is drawn from the same classes as that of the adjoining British territories, and every day that passes sees the subjects of the Gaekwar outdistancing more and more British subjects in the surrounding districts.

“My Lord, if the history of elementary education throughout the world establishes one fact more clearly than another, it is this, that without a resort to compulsion no State can ensure a general diffusion of education among its people. England, with her strong love of individualism, stood out against the principle of compulsion for as long as she could, but she had to give way in the end all the same. And when the Act of 1870, which introduced compulsion into England and Wales, was under discussion, Mr. Gladstone made a frank admission in the matter in language which I would like to quote to this Council. ‘Well, sir,’ said he, ‘there is another principle, and undoubtedly of the gravest character, which I can even now hardly hope—though I do hope after all that we had seen—is accepted on the other side of the House—I mean the principle that compulsion must be applied in some effective manner to the promotion of education. I freely and frankly own that it was not without an effort that I myself accepted it. I deeply regret the necessity. I think that it is a scandal and a shame to the country that in the midst of our, as we think, advanced civilization, and undoubtedly of our enormous wealth, we should at this time of day be obliged to entertain this principle of compulsion. Nevertheless, we have arrived deliberately at the conclusion that it must be entertained, and I do not hesitate to say that, being entertained, it ought to be entertained with every consideration, with every desire of avoiding haste and precipitancy, but in a manner that shall render it effectual . . . .’ A Royal Commission, appointed in 1886 to report on the working of the measures adopted to make attendance at school compulsory in England and Wales, bore ungrudging testimony to the great effect which compulsion had produced on school attendance. ‘It is to compulsion,’ they wrote, ‘that the increase of the numbers on the roll is largely attributable. Among the witnesses before us, Mr. Stewart appears to stand alone in his opinion that, provided the required accommodation had been furnished, the result would have been much the same if attendance had not been obligatory. But to estimate fairly the influence, which compulsion has had upon the great increase in the number of children attending school, we must speak of it under the three heads into which its operation may be divided. There is, first, the direct influence of compulsion. This is exerted over parents, who are indifferent to the moral and intellectual welfare of their children, who are very eager to obtain what advantage they can from their children’s earnings, but who never look beyond . . . . But, secondly, compulsion exercises an indirect influence. Many parents are apathetic, yield weakly to their children’s wish not to go to school . . . . But they are keenly alive to the disgrace of being brought before a Magistrate, the fear of which supplies a stimulus sufficient to make them do their duty in this respect. In addition, the existence of a compulsory law has considerably affected public opinion and has done much to secure a larger school attendance by making people recognise that the State regards them as neglecting their duty, if their children remain uneducated. The Ceylon Commission of 1905, in dealing with the question whether attendance at school should be made compulsory, expressed themselves as follows :—‘With the exception of one or two districts of the Island, little good will be done by any system which does not enforce compulsory attendance. The Dutch, who had an extensive and successful system of Vernacular schools throughout the portions of the Island which were under their rule, found it necessary to enforce attendance by fines, and did so regularly. Parents, throughout a large portion of the Island, exercise very little control over their children, and will leave them to do as they like in the matter of school attendance. The result is that, where there is no compulsion,



boys attend very irregularly and leave school very early. That compulsory attendance is desirable we have no doubt.' My Lord, primary education has rested on a voluntary basis in this country for more than half a century, and what is the extent of the progress it has made during the time? For answer one has to look at the single fact that seven children out of eight are yet allowed to grow up in ignorance and darkness, and four villages out of five are without a school. During the last six or seven years, the pace has been slightly more accelerated than before, but, even so, how extremely slow it is may be seen from what Mr. Orange says of it in the last quinquennial report, issued two years ago: - 'But the rate of increase for the last twenty-five years or for the last five is more slow than when compared with the distance that has to be travelled before primary education can be universally diffused. If the number of boys at school continued to increase even at the rate of increase that has taken place in the last five years, and even if there was no increase in population, even then several generations would still elapse before all the boys of school age were in school.' My Lord, I respectfully submit that this state of things must be remedied; that India must follow in the wake of other civilised countries in the matter, if her children are to enjoy anything like the advantages which the people of those countries enjoy in the race of life; that a beginning at least should now be made in the direction of compulsion; and that the aim should be to cover the whole field in the lifetime of a generation. When England introduced compulsion in 1870, about 43 per cent. of her children of school-going age were at school, and ten years sufficed for her to bring all her children to school. When Japan took up compulsion, about 28 per cent. of her school-going population was at school, and Japan covered the whole field in about twenty years. Our difficulties are undoubtedly greater than those of any other country, and our progress, even with the principle of compulsion introduced, is bound to be slower. But if a beginning is made at once, and we resolutely press forward towards the goal, the difficulties, great as they are, will vanish before long, and the rest of the journey will be comparatively simple and easy. My Lord, it is urged by those who are opposed to the introduction of compulsion in this country that though the Gaekwar, as an Indian Prince, could force compulsion on his subjects without serious opposition, the British Government, as a foreign Government, cannot afford to risk the unpopularity which the measure will entail. Personally I do not think that the fear which lies behind this view is justified, because the Government in Ceylon is as much a foreign Government as that in India, and in Ceylon the authorities have not shrunk from the introduction of compulsion. But to meet this objection, I am quite willing that the first steps in the direction of compulsion should be taken by our Local Bodies, which reproduce in British territory conditions similar to those which obtain in Feudatory States. And even here I am willing that the first experiment should be made in carefully selected and advanced areas only. When the public mind is familiarised with the idea of compulsion, the Government may take the succeeding steps without any hesitation or misgiving. In view, also, of the special difficulties, likely to be experienced in extending the principle of compulsion at once to girls, I am willing that, to begin with, it should be applied to boys only, though I share the opinion that the education of girls is with us even a greater necessity than that of boys, and I look forward to the time when compulsion will be extended to all children alike of either sex. To prevent injudicious zeal on the part of Local Bodies, even in so good a cause as the spread of elementary education, I am willing that ample powers of control should be retained by the Provincial and Imperial Governments in their own hands. What I earnestly and emphatically insist on, however, is that no more time should now be lost in making a beginning in this all-important matter.

"My Lord, I now come to the Bill, which I hope the Council will let me introduce to-day, and I ask the indulgence of the Council while I explain briefly its main provisions. The Bill, I may state at once, has been framed with a strict regard to the limitations of the position, to which I have already referred. It is a purely permissive Bill, and it merely proposes to empower Municipalities and District Boards, under certain circumstances, to introduce compulsion within their areas, in the first instance, in the case of boys, and later, when the time is

ripe, in the case of girls. Before a Local Body aspires to avail itself of the powers contemplated by the Bill, it will have to fulfil such conditions as the Government of India may by rule lay down as regards the extent to which education is already diffused within its area. Last year, in moving my resolution on this subject, I urged that where one-third of the boys of school-going age were already at school, the question of introducing compulsion might be taken up for consideration by the Local Body. I think this is a fair limit, but if the Government of India so choose, they might impose a higher limit. In practice, a limit of 33 per cent. will exclude for several years to come all District Boards, and bring within the range only a few of the more advanced Municipalities in the larger towns in the different Provinces. Moreover, a Local Body, even when it satisfies the limit laid down by the Government of India, can come under the Bill only after obtaining previously the sanction of the Local Government. I submit, my Lord, that these are ample safeguards to prevent any ill-considered or precipitate action on the part of a Local Body. Then the Bill provides for a compulsory period of school attendance of four years only. Most countries have a period of six years, and even Ceylon and Baroda provide six years; Italy, which began with three, and Japan, which began with four years, have also raised their period to six years. But considering that the burden of additional expenditure involved will in many cases be the principal determining factor in this matter, I am content to begin with a compulsory period of four years only. The next point to which I would invite the attention of the Council is that the Bill makes ample provision for exemption from compulsory attendance on reasonable grounds, such as sickness, domestic necessity or the seasonal needs of agriculture. A parent may also claim exemption for his child on the ground that there is no school within a reasonable distance from his residence, to which he can send the child without exposing him to religious instruction to which he objects; and a distance of one mile is laid down as a reasonable distance. This, however, is a matter of detail, which, perhaps, may better be left to Local Governments. When a Local Body comes under the Bill, the responsibility is thrown upon it to provide suitable school accommodation for the children within its area, in accordance with standards which may be laid down by the Education Department of the Local Government. On the question of fees, while I am of opinion that where attendance is made compulsory, instruction should be gratuitous, the Bill provides for gratuitous instruction only in the case of those children whose parents are extremely poor, not earning more than Rs. 10 a month, all above that line being required to pay or not in the discretion of the Local Body. This is obviously a compromise, rendered necessary by the opposition offered by so many Local Governments to the proposal of abolishing fees in primary schools, on the ground that it means an unnecessary sacrifice of a necessary and useful income. Coming to the machinery for working the compulsory provisions, the Bill provides for the creation of special school attendance committees, whose duty it will be to make careful enquiries and prepare and maintain lists of children who should be at school within their respective areas, and take whatever steps may be necessary to ensure the attendance of children at school, including the putting into operation of the penal clauses of the Bill against defaulting parents. The penal provisions, it will be seen, are necessarily light. To ensure the object of the Bill being fulfilled, the employment of child labour below the age of ten is prohibited, and penalty is provided for any infringement of the provision. Lastly, it is provided that the Government of India should lay down by rule the proportion in which the heavy cost of compulsory education should be divided between the Local Government and the Local Body concerned, it being assumed that the Supreme Government will place additional resources at the disposal of the Local Government, to enable it to defray its share, the Local Body being on its side empowered to levy a special Education Rate, if necessary, to meet its share of the expenditure. It is obvious that the whole working of this Bill must depend, in the first instance, upon the share, which the Government is prepared to bear, of the cost of compulsory education, wherever it is introduced. I find that in England the Parliamentary grant covers about two-thirds of the total expenditure on elementary schools. In Scotland it amounts to more than that proportion, whereas in Ireland it meets practically the whole cost. I think we



are entitled to ask that in India at least two-thirds of the new expenditure should be borne by the State.

"This, my Lord, is briefly the whole of my Bill. It is a small and humble attempt to suggest the first steps of a journey, which is bound to prove long and tedious, but which must be performed, if the mass of our people are to emerge from their present condition. It is not intended that all parts of the Bill should be equally indispensable to the scheme, and no one will be more ready than myself to undertake any revision that may be found to be necessary in the light of helpful criticism. My Lord, if I am so fortunate as to receive from the Council the leave I ask at its hands, it will probably be a year before the Bill comes up here again for its further stages. Meanwhile, its consideration will be transferred from this Council to the country, and all sections of the community will have ample opportunities to scrutinise its provisions with care. My Lord, this question of a universal diffusion of education in India depends, almost more than any other question, on the hearty and sympathetic co-operation of the Government and the leaders of the people. The Government must, in the first instance, adopt definitely the policy of such diffusion as its own, and it must, secondly, not grudge to find the bulk of the money, which will be required for it, as Governments in most other civilised countries are doing. And this is what we are entitled to ask at the hands of the Government in the name of justice, for the honour of the Government itself, and in the highest interests of popular well-being. The leaders of the people, on their side, must bring to this task high enthusiasm, which will not be chilled by difficulties, courage, which will not shrink from encountering unpopularity, if need be, and readiness to make sacrifices, whether of money or time or energy, which the cause may require. I think, my Lord, if this Bill passes into law, the educated classes of the country will be on their trial. It is my earnest hope that neither they nor the Government will fail to rise to the requirements of this essentially modest and cautious measure. My Lord, one great need of the situation, which I have ventured again and again to point out in this Council for several years past, is that the Government should enable us to feel that, though largely foreign in personnel, it is national in spirit and sentiment; and this it can only do by undertaking towards the people of India all those responsibilities, which national Governments in other countries undertake towards their people. We, too, in our turn, must accept the Government as a national Government, giving it that sense of security which national Governments are entitled to claim, and utilising the peace and order, which it has established, for the moral and material advancement of our people. And of all the great national tasks which lie before the country, and in which the Government and the people can co-operate to the advantage of both, none is greater than this task of promoting the universal diffusion of education in the land, bringing by its means a ray of light, a touch of refinement, a glow of hope into lives that sadly need them all. The work, I have already said, is bound to be slow, but that only means that it must be taken in hand at once. If a beginning is made without further delay, if both the Government and the people persevere with the task in the right spirit, the whole problem may be solved before another generation rises to take our place. If this happens, the next generation will enter upon its own special work with a strength which will be its own security of success. As for us, it will be enough to have laboured for such an end—laboured even when the end is not in sight. For, my Lord, I think there is not only profound humility but also profound wisdom in the faith which says:—

‘I do not ask to see the distant scene :

One step enough for me.’ ”

The Hon'ble MR. DADABHOY : "My Lord, the Hon'ble Mr. Gokhale deserves the thanks of the community for his services in the cause of Indian education. They cannot be forgotten. The Bill he asks Your Excellency's permission to introduce has the recommendation of being the production of an educationist of large experience, whose zeal for the public good cannot be doubted. *Primâ facie* it deserves support. A close examination of the

provisions will show that the general principle is sound. My views on the subject of primary education coincide with those of Mr. Gokhale, and I am of opinion that liberal and adequate provision should be made without delay for elementary public instruction. The existing state of things cannot be allowed to last longer without rendering the Government liable to serious reproach. In British India only 26·1 per cent. of boys and 3·9 per cent. of girls of a school-going age attend school. This cannot bode well for the common weal. But India is poor and steeped in prejudice, and progress in primary education can only be secured by making it free and compulsory. Even in advanced countries of the West and the East the experience of the past is that a system of free and compulsory instruction is the most effective means of combating popular ignorance. There are special circumstances in India which make such a system even more imperative. Religious and social prejudices added to the chronic impecuniosity of the villager create a situation at once delicate and difficult, and cautious advance in free and compulsory education of an elementary kind is more than ever necessary.

“ So far there is no question that the Bill is founded upon a principle sound and practical alike. Most people will agree with Mr. Gokhale on the fundamental question of free and compulsory primary education. But the method adopted by him for securing the end is doubtless open to question. The outstanding features of the Bill require careful examination and considerable modification. That is, however, no reason why the Bill should not be allowed to be introduced. The need for a system of free and compulsory primary education premised, a satisfactory settlement of the details can best be secured by the publication and circulation of the Bill for opinions after introduction. Mr. Gokhale, with his respect for public opinion, will himself, I am sure, recast the Bill, as he has said to-day in Council, in the light of the criticisms in the Press and those submitted to Government by responsible persons through the usual channels.

“ My Lord, in the first place, the Bill gives discretionary powers to local bodies to enforce the law, subject to approval by the Local Government. Apparently there is not much to object to in this ; but, knowing as I do these bodies, I think the position contains an element of danger which it will be prudent to guard against. Whatever their legal constitution, the local bodies are not self-governing. They are more or less under official influence and official control ; they do not entirely reflect the opinions and the wishes of the ratepayers. Even in the most advanced province, Bengal, both Municipalities and District Boards are influenced by the District Officer. That officer is an *ex-officio* Chairman of the District Board, and even in Municipalities enjoying the privilege of electing non-official chairmen, for some reason or other, the District Magistrate is appointed Chairman by the Local Government, on the recommendation of the Commissioners. Unless the bodies are thoroughly reconstituted on a truly popular basis, the position will remain unimproved. The power of applying the law within any Municipal area or District Board area will in practice be exercised by the District Officer. The members will not count for much. Now the question is, is it wise, is it politic to invest this officer with further powers ? Will this lead to good results ?

“ I have no doubt in my mind it is highly impolitic. It will involve the local bodies in serious difficulty. With the best of motives, the District Officer may be bent upon improving the moral condition of the people in his charge, in disregard of financial and social conditions. He will at once set the law in motion. The sanction of the Local Government will not be difficult to secure when the District Officer moves. Much of the present dissatisfaction with the administration among the people is due to the so-called local reforms, and I for one do not see the wisdom of widening the scope of the reforming activity of an officer who is already much too powerful. The oversight sought to be given to the Local Government will provide a weak check upon him. The situation is radically different in the United Kingdom. There the local bodies are self-governing bodies in the true sense. A system adapted to the needs of an English community in a high stage of political and moral development will be completely out of place in a country where administration is centralised and local bodies follow implicitly the lead of the District Officer.



"It may also be that the District Officer will not take kindly to the idea. It is a matter of common knowledge that many District Officers do not favour free primary education. The announcement in Council in 1907 of the Government of India's determination to introduce a scheme of free primary education was not followed by any tangible results, because, it is believed, of the opposition of local officers. Be that as it may, it is conceivable that there should be officers who would be unwilling to see the system of education provided for in the Bill introduced within their districts. However well-adapted the area may be for the experiment, in the present condition of things, no Municipality and no District Board will have the temerity to seek to apply the law in opposition to the wishes of the District Officer; and even if an attempt be made, the sanction of the Local Government will be difficult to get. It all thus resolves into this, that the District Officer will be the master of the situation, and the application or non-application of the measure will be wholly dependent upon his will. This arrangement will not appeal to many.

"The proper course, in my opinion, will be to create a body—a School Board—in each Division, independent of the local executive and acting under the Director of Public Instruction, and to vest all discretionary powers under the Bill in it. Perhaps it will not be wise to have at the start a central Board of Education as in the United Kingdom. We shall do well to begin with Divisional School Boards. The constitution of the Boards must be entirely on a popular basis, the membership being elective. Payment of local rates and University education may be the qualifications for membership. Such a body would command greater confidence among the people, and would work the law with greater judiciousness and satisfaction.

"The local bodies are also incapable of discharging the additional duties. Their ordinary work, I should think, is enough for them, and I would not add to their responsibility. They are, besides, more or less starved for funds. Their resources are limited, and even legitimate rural and urban work suffers for want of financial support. The diversion of any part of the general revenues is out of the question. It will be impossible for the local bodies to pay more for primary education than they are doing now. The provision for the levy of an education rate is impracticable and injudicious, especially in view of the fact that the local bodies, in practical working, mean the District Officer. However great may be our regard for this officer, nobody would seriously recommend a proposal for giving him powers of taxation.

"This is the second objectionable feature of the Bill. Moreover, local taxation is already trying enough. On no account should it be increased. The provision of the Bill will be productive of general discontent. Municipal taxes are at present not realised in full, and realisation by distress-warrants is a common feature of urban administration. In these circumstances, considerations of ordinary prudence would counsel abandonment of the proposal. The country will not cheerfully submit to additional taxation even for free education.

"One other consideration would discredit the proposal. Government has a clear responsibility in the matter of primary education. If free primary education is to be provided, it must be with a Government grant supplemented by such financial help from local bodies as is being rendered by them now. When, in 1907, Government was prepared to introduce a system of free primary education, there was no suggestion of special taxation. Government apparently was ready to finance the scheme. In every country enjoying the boon of free primary education, Government liberally supports it. In the United Kingdom the Parliamentary grant for elementary education is progressive, and in 1909 the expenditure was about 16 million pounds sterling.

"The Hon'ble Mr. Gokhale has followed in his Bill the Irish Education Act of 1892 (55 & 56 Vict., ch. 42). Section 18 of that Act provides for the payment in Ireland of a Parliamentary grant for the support of elementary education. The Bill before us does not seek to place on a legal basis the financial obligation of the Government.

"I must also refer to clause 17 of the Bill, which, in the present stage of development of the country, is altogether unsuited. I do not think we can safely launch a scheme of compulsory education for girls. However laudable the object, we cannot seriously entertain the proposal now. The provision is sure to lead to complications. We should be satisfied for the present with educating boys in spite of their parents and guardians. Compulsory education of girls, if ever practicable, should be left for future legislative treatment. In the majority of cases girls are married at a very tender age, and become *pardanashin* from the date of marriage. To force them to attend public schools after that will be a serious departure from the administrative policy which the Government of India has so far followed with such eminent success.

"But these are details which will be discussed at a later stage. Meanwhile, let us have the Bill formally before the Council. I accordingly support Mr. Gokhale's motion for leave to introduce the Bill."

The Hon'ble MAHARAJADHIRAJA BAHADUR OF BURDWAN: "My Lord, at this early stage my only excuse for getting up and speaking is that I have no intention to oppose my Hon'ble friend's Bill which he has introduced here to-day. I think that, as he himself would like to hear criticisms about the provisions of this Bill, I am justified in making the following observations on the Elementary Education Bill so ably introduced by my friend Mr. Gokhale. As Mr. Gokhale has himself admitted, the Bill seems to be a sort of compromise between the two alternatives that if education is to be made compulsory it should be free, and that if it is not free it should not be compulsory. The Bill proposes to make the education partly free and therefore partly compulsory. But the logic of this does not appear to me to be quite sound, inasmuch as it is free only to those whose monthly income does not exceed Rs. 10, but compulsory to all, irrespective of their income, unless they have a reasonable excuse for the non-attendance of their boys. Of course, I am not an authority on statistics like my friend Mr. Gokhale, but I think that this is going a step further than they have even gone in Europe, where the present situation is, to my knowledge, that elementary education is imparted free of charges in consideration of its compulsory nature. I do not mean to say that in the present circumstances of India education should be imparted free of all charges, for to receive the desired benefit of making it generally free, it should be also made compulsory, which cannot be done in India at the present stage, as the consensus of opinion on the question of the abolition of fees in primary schools would prove. What I mean is only this, that if in spite of this universal opinion against a compulsory system of education it be considered necessary to introduce compulsory education in India, it should also be made generally free. It is neither fair nor just to tamper with the dominion of the *patria potestas* and to burden them with expenditure at the same time.

"My Lord, then I come to certain clauses of this Bill. A very curious feature is to be found in clause 4 if read in the light of the definition of the word 'parent' in clause 2. This would require every guardian or every person who has the actual custody of a child to send him to a recognised school. Now, supposing, my Lord, a poor clerk earning Rs. 15 a month or thereabouts, and having just enough to eat and wear, should find an orphan boy in the street and, having pity on him, should take him home with him and keep him there; in this case, though he may have the actual custody of the boy, should he be compelled to educate him also? Such cases are not rare in India. There are many wealthy men, and also men fairly well-off but not very wealthy, who take a liberal interest in the poor and who maintain numerous such orphan children in their houses. Whatever moral obligations there may be about educating these children, there is no law in any country which may compel these benevolent men to be more liberal.

"Then, my Lord, I come to another clause of this Bill, *viz.*, the introduction of an educational cess, or rather tax. This, clause 8 of the Bill, authorises the local body to levy special educational rates on the localities concerned. This seems to me objectionable. I see no reason why a person who educates his



children at home or in schools or colleges should be compelled to pay a tax, however small, for a purpose which does not concern him directly. My Lord, many who gave their opinion in this selection from the records of the Government of India (*Papers regarding the question of the abolition of fees in primary schools*) did not see the possibility of such a taxation in future when they pronounced their opinions on the question of the abolition of fees in primary schools, and, therefore, they evidently were silent on this point; but there were some who foresaw this contingency and therefore opposed this measure. The only two gentlemen who could recommend such a taxation were Babu Jogendra Nath Ghose and Babu Bipradas Palchowdhry; but I shall quote only one gentleman's opinion, which I think ought to carry some weight with my countrymen, though that gentleman has been living in retirement for some time past. Raja Ban Behari Kapur says—

'I advocate the granting of free education to the masses on the clear understanding that the Indian Government will be able to supply funds from the ever-increasing Imperial revenue and that no portion of the requisite amount shall be raised by the imposition of an education-tax or other taxation. I am decidedly in favour of granting a boon to the people if we can afford it, but I think it improper to confer an un-asked for favour on one section of the community by taxing another; I object to such a step on principle.'

"My Lord, now I turn to another clause of the Bill. In clause 9 of the Bill we find the proposed limit of a monthly income of Rs. 10. I did not quite follow why my friend has arrived at this particular figure, for in the case of Indians their general prosperity cannot be judged merely from their income. The man who has only got a wife and a child to maintain may be much better off with an income of Rs. 10 than another with an income of Rs. 15 or Rs. 20 having a number of dependents to support, and the latter may be required to pay for the education of his own children though the former may escape the liability. I submit the limit should be so fixed as to allow variations in each particular case instead of leaving the matter to be decided by the Municipality or the District Board as is proposed in clause 9 of the Bill.

"Then, in clause 17 we find that this clause authorises the Municipality or the District Board to extend, with the previous sanction of the Local Government, the provisions of this Bill to girls. In one word, I may say, Sir, that the time has not yet come to extend this Bill to girls. I have doubts that it will come soon. I myself am a strong advocate of female education, but with my liberal views on the matter I cannot think of making it obligatory on the parents to send their girls of 9 or 10 years to public schools. I think this matter has been so ably dealt with by my Hon'ble friend Mr. Dadabhoy, that I shall not detain this Council on it any further.

"Lastly, the question, if the object of the Bill is to introduce the principle of compulsory education in India gradually, then of course the question that it involves is whether it should also be made free. Of course, as Mr. Gokhale has said, many of the Local Governments being opposed to it, he has had to bring this compromise; but I think, personally, that the country is not quite ready for it. Now, my Lord, I beg leave to state that if (I wish to draw Mr. Gokhale's particular attention to this) his intention be to educate the poorer classes of Indians, the lower classes, among whom we find mostly agriculturists or artisans, then, remembering that a practical training of their special professions is also very necessary, should we always encourage this acquisition of a little learning? Because, though I admit that we have no right to keep away from them the advantage that the peace and tranquillity of British rule in India has given to Indians to educate themselves, I think it would be worth considering the well-known saying that 'a little learning is a dangerous thing.' I doubt very much, my Lord, if all these little luminaries who would come out from these schools would condescend to look after their ancestral homely occupations or would rather be inclined to get a cosy room and an electric punkah."

The Hon'ble MR. CHITNAVIS : "My Lord, Mr. Gokhale has my unstinted praise for his life-long efforts to promote the educational interests of his countrymen. I share to the full the appreciation which the public feel for his

work. I stated my views on the subject of compulsory education last year. It is not so much the temporary diversion of infant labourers from the field and the workshop to the school that will constitute the difficulty arising from any attempt at compulsory education; it is the tendency of all intellectual education to breed in the recipient a distaste for manual labour and thus to wean him from the family pursuits that contains the germs of an evil, insidious but potent. Caste in India has already divorced labour from intellect, producing abnormal conditions in the labour market, and has created a large intellectual class whose well-being is a matter of serious concern to Government. Anything which swells this class, without a commensurate widening of the area of employment, must be viewed with alarm. Besides, education, ill-directed and not properly controlled, has its evils.

"I am glad that all these difficulties are more than anticipated by Mr. Gokhale himself, and it is this that has induced him to introduce so many safeguards in the Bill, which deprive it of much of the evil apprehended by opponents of compulsory education. I think the Bill may be introduced, and the public should be given an opportunity to criticise it. It is of a permissive character, and that is its chief recommendation.

"I have, however, my doubts as regards the wisdom of his recommendation that a special cess may be levied for funds for its support. My long connection with District Councils and Municipalities has convinced me of the fact that the existing level of local taxation is sufficiently high. A fresh imposition will prove only irritating and oppressive.

"With these words I beg to support the Bill."

The Hon'ble MR. SUBBA RAO: "It is fitting, my Lord, that this Bill should be introduced by the Hon'ble Mr. Gokhale who has consecrated his life to the service of his country, and it is also opportune that the Bill should be introduced now, because the Decentralisation Commission has made its recommendations. One of the important recommendations which that Commission has made is that a large measure of autonomy should be given to local areas, and powers, I believe, would shortly be given to villages to administer their affairs in certain matters. It is fitting, therefore, that this measure should now be introduced dealing with elementary education, and the attention of villagers drawn to the benefits of a measure like this, so that they might take advantage of it. It is also opportune, my Lord, because at present there is an awakening among the people in this country and there is a desire on their part that efforts should be made to better their condition in all directions—not only industrial and commercial, but also educational; and I do not think therefore that this Bill would fall flat upon the country, as predicted by some. No doubt, if some 15 or 20 years ago such a Bill were passed, it might have shared that fate; but to-day I do anticipate a better welcome for a measure of this kind. It is purely permissive in its character. If it were to prove successful in one or two areas, it would be an example for others to take it up and gradually extend compulsory education throughout the country.

"It is suggested that the educational cess would be a burden upon the people, and instead of this measure being a blessing, it would be a source of irritation to them. I wish in this connection to draw attention to an experiment which was made in the Madras Presidency some long time ago, when there was not this idea of free and compulsory education. More than fifty years ago, my Lord, Mr. G. N. Taylor was the Sub-Collector of Narsapur, an out-of-the-way place in the northern part of the Madras Presidency. In those days he started schools with the aid of villagers. I shall read an extract from the *History of Education in the Madras Presidency*, compiled by Dr. Sattyanadhan and published with the sanction of the Director of Public Instruction, as it bears upon the discussion that has been raised in connection with the Bill:

'In 1853, Mr. G. N. Taylor, the Sub-Collector of Rajahmundry, had established an Anglo-Vernacular School at Narsapur, his head-quarters, and three branch schools in three towns in that neighbourhood. These schools were partly maintained by Mr. Taylor and partly by local subscriptions. In course of time, their successful working attracted the attention of the neighbouring raiyats, who applied to the Sub-Collector to establish Vernacular schools in their villages, offering to defray the cost by a fixed annual addition to the revenue



demand on their villages. In pursuance of this scheme schools were established in some central villages; some of the larger schools were provided by Government with masters of a better kind than the raiyats could pay for. These masters had to inspect all schools within a certain range, and there was a Native Inspector to superintend the whole. Speaking of this system in 1856-1857, Mr. Arbuthnot, the then Director of Public Instruction, said, "the Rajahmundry system cannot be introduced into raiyatwari districts upon the principle on which its introduction was sanctioned, *viz.*, that the rate shall be raised voluntarily, and it seems to be extremely doubtful whether even in Rajahmundry the rate can properly be called voluntary."

"My Lord, these facts show how, if once people are convinced that the measure proposed would be beneficial to them, they would voluntarily take it up and make it a success. I have no doubt that if the experiment is now tried in some areas, it would prove successful. Considering the time and the circumstances, considering the general feeling among the people, considering the interest the Government of India themselves take in this matter, and considering the needs of the situation, I am of opinion that a measure of this kind is absolutely necessary and I am sure it will be welcomed by the people at large. I submit that in view of the amount of interest that is taken by the public in questions relating to education and the complaints that are made against the Government for not moving fast enough in the matter, a measure of this kind should receive the support of this Council. And, after all, what is this measure? It has been blamed as a very cautious measure and as a colourless measure. Yet when a measure of this kind is introduced, that objection should be raised to it is what I am surprised at. I for one would like to introduce some provisions in the Bill, not exactly to make it repulsive or irritating to the people at large, but to make the machine go a little faster. I submit, therefore, that the circumstances are favourable and that the measure ought to be welcomed by the Council."

The Hon'ble MR. MUDHOLKAR : "My Lord, I rise to accord my full and cordial support to the proposal of my friend the Hon'ble Mr. Gokhale, and in doing so I wish to offer my most hearty congratulations to him for the conspicuous ability, the brilliance of eloquence, the mastery of principles and the wealth of details with which he has introduced it. My Lord, I believe that even those who differ from him in regard to the principle of the measure will admit the ability with which he has brought the question forward and discussed it in its various aspects, and it is only natural that I, who have worked with him for years, should entertain the feelings I do."

"My Lord, last week, when we were discussing the Financial Statement, a resolution in regard to free education was moved by my friend the Hon'ble Mr. Mazharul Haque. Speaking in reference to that, I urged that, though compulsory and free education was the ideal to be kept in view, that though we were to strive and work for universal education, we must recognise that, so far as the country as a whole was concerned, we were at a considerable distance from that goal. There are several, I might say many, rural areas, and there are particularly the mountainous and undeveloped tracts, which would take years and years before they can be considered fit for a measure of compulsory education. My support to the present measure is in no way a departure from the principles then put forward. It is because I consider that there are towns and cities which have advanced sufficiently, in which there is sufficient evidence of the existence of progressive ideas, and which are therefore qualified for this experiment, that I accord my support to what my friend has brought before the Council."

"My Lord, last year certain statements were made in regard to education which I am sure must have given pain to all advocates of education both in this Council and outside. We were told that if education was made universal it would be difficult to find a sufficient number of servants and menial employes. We are also now told that if primary education is given the heads of boys would be turned and they would be utterly unfit to follow their vocations in life. My Lord, I would ask the gentlemen who entertain these views only to see to what is going on elsewhere in the world, and to ask themselves what it is that has brought about the remarkable progress we see in the European countries, in America and in Japan. I would not like to take the time of the Council in stating truisms, but when it is stated that a knowledge of the three

R's would turn the head of a boy and make him unfit to follow his vocation in life, that an agriculturist's son would sit in his room and ask for an electric fan, I am forced to say that the actualities of life are not taken into consideration and the experiences of other people are entirely forgotten. My Lord, the Agricultural Department is issuing in several provinces most useful leaflets and tracts for the purpose of suggesting various things of advantage to the agriculturist. Now, the information which they give about the various kinds of manures, improved methods of cultivation, better selection of seeds, and so on, will prove helpful to the agriculturists; and if those who are against this kind of primary education would not give that little modicum of knowledge, which would enable those people to read these leaflets and pamphlets, not only would the purpose of Government be defeated but those men would be kept for ever in darkness and poverty. Then there are the operatives in our factories, and there is the great working class. Do the opponents of mass education suppose that these people have not perceived the benefits of education? I would for their benefit in that case tell them that we have got in a town of only 34½ thousands of inhabitants, private night schools for the depressed classes, which are attended by masons and bricklayers, by carpenters and smiths, who do a hard day's work and attend there in the night. And there are even *chamars* who take advantage of these schools. I do not suppose that the desire of several of these working men for education is at all taken into consideration. We have the great economic problem before us. It is everywhere admitted that the industries of India should be developed and that agriculture should be improved. Well, we have in this matter the experience of other nations, and we have words of wisdom written for us by such an authoritative body as the Royal Commission on Technical Education appointed in 1884, and we have the experience of America given to us by Mr. Mosely's Commission. There it is not only the captains of industries, or even the foremen and the overseers, whose education is felt necessary, but its need in the case of the actual workers—the operatives—is also universally recognised. The development of their intelligence and increase of their knowledge are considered equally conducive to the improvement of industries.

“My Lord, the demands which Mr. Gokhale has put forward are so very modest that I expected that my countrymen at any rate would join in supporting them. When we take into consideration what exists in other countries, when we find that there is hardly any European country in which education is not either free and compulsory, or free, or compulsory; and when we find the same state of things in America; when we find that the Phillipine Islands and Ceylon and our own Baroda State have made considerable advance under conditions very similar to those which exist in India, — is it not our duty to go on pressing forward this question? We know that a beginning cannot be made on a large scale. A beginning must be always very small. And it is only a modest beginning which is now advocated. I would ask the Council to give weight to the desire for education which is shown by several of our towns. I have made some enquiries in this matter and I would give only one instance. In a province in which the Education Department was established only in 1866, we find in one town with a population of only 35,000 over 1,400 boys attending primary schools, over 700 boys attending secondary schools and over 300 boys attending the high school classes in the high schools. Then there are the students in training colleges and others learning at home whom I leave out of consideration. More than 35 per cent. of boys between 6 and 10 are already attending school. Now, that town is in no way occupying an exceptional position. It only represents the progress which has been made in several of our towns. My Lord, I consider that the desire for education is sufficiently keen amongst our urban population as to justify this measure. It is the fear of some people that Government, by giving its sanction to compulsory education, may run the risk of some unpopularity. My Lord, if the Government were doing this directly and if the Government was indiscriminately introducing it, there would, I admit, be some amount of risk of that kind. But first of all nobody asks for an indiscriminate introduction of the measure; and further it



is not Government which itself will do any of these things. The responsibility of determining whether elementary education should be made compulsory is to be left under certain well-guarded rules on local bodies. I may well claim the credit of having been connected with local self-government for a longer period than any of my non-official colleagues here. Well, urban local bodies, that is, our Municipal Committees, consist of a majority of elected members who have to be in touch with the people—with the ratepayers; and they would not venture to bring forward any measure which the ratepayers as a body—the majority among them—disapprove. That in itself is a guarantee of cautious action. A second guarantee of cautious action would be that they would have to find a substantial portion of the money. Even if the proportion is, as my friend Mr. Gokhale suggests, two-thirds from Government and one-third by local cess, even then they would have to find a considerable amount. And it would be only when they are satisfied about the desire of the people for it that they would support the measure. My Lord, I believe these are sufficient guarantees against hasty and incautious action.

“Now, there is only one word more which I would like to say in recommending this measure to the acceptance of the Council. Till now I have advocated this policy on the ground of the interest of the people. But I urge, my Lord, that such a measure as the spread of mass education is as much required in the interest of good government. - Already considerable powers have been given to the urban population and in several portions of the rural areas to the rural population, and there are fair grounds to expect that, with the report of the Decentralisation Commission before Government, there would be conferred on local bodies further enhanced powers and a larger increase of responsibility. I would therefore say to Government, in the words of Mr. Low when the Reform Bill of 1867 was passed, ‘we must educate our masters’.”

The Hon'ble Mr. QUIN : “My Lord, at the outset of the few remarks which I propose to offer on this Bill at this stage, I have to say, on behalf of the Government of Bombay, that, on the understanding that they will have an opportunity of considering the provisions of the Bill later on, they do not desire now that I should urge any objection to its introduction.

“On two occasions, my Lord, I have spoken in this Council against proposals having for their object the encouragement of schemes connected with free and compulsory primary education. Recognising, as I do, the paramount importance of the spread of education in this country, I am the more glad to be able to-day to offer a welcome to the Bill which has been proposed by my Hon'ble friend Mr. Gokhale.

“The details of the Bill, my Lord, are for future discussion and we are concerned to-day only with the principles.

“When I came here this morning I was prepared to point out to the Council that the Bill contained at least two principles which, in my opinion, rendered it deserving of most careful consideration. Since I have heard the able and eloquent speech with which my Hon'ble friend has introduced his Bill, I have been disappointed to find that one of these principles was read into the Bill by myself and does not really exist; in fact, the Hon'ble Member has, with his own hands, knocked away one of the props with which I had intended to support the Bill to-day. As I read the provision which prescribes or permits the levy of a local rate for Education, I thought that the Hon'ble Member recognised the principle of local liability for the additional expenditure, or at any rate a very large part of it, which would be caused by this scheme. I find now, however, that the Hon'ble Member's intentions are different and that he intends to throw the greater part of the burden of compulsory education upon Imperial funds, and for this reason I shall say no more about this principle in the few remarks I wish to make to-day.

“The other principle, my Lord, which I consider is deserving of the attention of the Council is one which occupies a very prominent place in the Bill—I mean the co-operation of the people concerned. Now, my Lord, regarding the extent to which the enactment of this Bill will tend to increase the measure of co-operation which will be accorded by the people to the Education Department, I must

confess that I have some misgivings. But the point on which I wish to lay stress now is this, that, until the readiness of the people in any local area to co-operate in the matter of compulsion has been indicated, and until the local body, who will scarcely ever act without having behind them a large amount of agreement as to what is to be done, have made an express demand on Government that the Act should be applied, the scheme proposed by Mr. Gokhale will not come into operation. In this initiative of the local body I recognise that there will be a very strong check on any undue idealism which may be manifested in certain quarters with the desire to introduce compulsory education where it is not wanted.

"The Hon'ble Mr. Dadabhoy, my Lord, has made some remarks which I may almost characterise as unsympathetic with regard to the District Officer, and although I am not concerned here to defend the District Officer, I would like to point out that the attitude taken up by the Hon'ble Mr Dadabhoy hardly reflects much credit upon the capacity for self-government of the Municipalities to which he was referring.

"In conclusion, then, my Lord, I would say that, in my opinion, such a Bill as that which has been brought forward to-day, when amended as it will undoubtedly be after it has run the gauntlet of the Government of India and the Local Governments and public opinion, may very well prove to be a valuable addition to our Statute-book.

"It is possible, my Lord, that the Bill, after it becomes law, will give rise to abuses. It is even more likely that the Bill may, in many provinces of India, remain a dead-letter; but there is always, I think, to be remembered that by recognising in a legislative enactment the principle that it is right and fitting that, where practicable, every child should receive primary education, the legislature will be setting up a standard which cannot fail to exercise a powerful and stimulating influence on the public opinion of the country."

*(After the interval for lunch.)*

#### SEDITIONOUS MEETINGS BILL.

The Hon'ble MR. JENKINS, C.S.I., *presiding.*

The Hon'ble MR. JENKINS: "Gentlemen, before we proceed with the business, I desire to propose the addition of certain names to the Select Committee on the Seditious Meetings Bill to which I should like to have the consent of Council. It is competent to Council to add names to the Select Committee at any time. I propose the addition of the following names:—

The Hon'ble the Maharajadhiraja Bahadur of Burdwan, the Hon'ble Babu Bhupendranath Basu, the Hon'ble Mr. Mazharul Haque, the Hon'ble Maulvi Shams-ul-Huda, the Hon'ble Mr. Mudholkar, the Hon'ble Mr. LeMesurier, the Hon'ble Mr. Holms, and the Hon'ble Colonel Davies.

"I understand Council gives its assent."

#### ELEMENTARY EDUCATION BILL—*continued.*

The Hon'ble MR. MAZHARUL HAQUE: "Sir, it gives me sincere pleasure to rise to-day to support the Bill which has been introduced by my Hon'ble friend Mr. Gokhale. Last year, when the resolution on the subject of free and compulsory primary education was moved by my Hon'ble friend, I gave to it my humble but whole-hearted support. This year, Sir, I had the honour of bringing myself a resolution on free primary education when the discussion



on the Financial Statement was going on. Now, Sir, this is the third occasion on which the subject of education has been brought before this Council, and I again rise to give my humble support to the extension of education in this country.

"Sir, the Bill in itself is a very modest and mild measure. Personally, I believe it is too mild and too modest, and does not go far enough. But my Hon'ble friend has taken the circumstances of the country into consideration, and therefore he has intentionally and studiously made his Bill such a mild one so that the country and the Government may accept it.

"Now, Sir, if the object of this Bill had been to turn out half-educated clerks or men of similar description, I would have been the first man to oppose it. But the object of the Bill is not this. Its object is to introduce a certain amount of light where there is intense darkness now. The crass ignorance of the masses of the country is simply deplorable, and my friend by his measure intends that they should be enlightened to a certain extent in order that their life may be a little more pleasant, there may be a little more intelligence in their daily occupations, and that they may live a healthy and a happy life. Sir, these are the reasons why I support this measure so fully.

"This Bill throws the responsibility of initiating compulsory education upon the people themselves. The responsibility of initiation has been taken away from the Government and thrown upon the shoulders of the public. This is an element which, I think, ought to go far to secure the support of the Government in this matter. As my friend has reminded this Council, the Government, being a foreign one, naturally has to be very cautious in introducing any measure which has an element of compulsion in it; and I consider, Sir, that, after the caution which has been introduced by my friend, there ought not to be any difficulty so far as the Government are concerned. Some of my friends here have taken objection to the passing of a Bill in which it is provided that local bodies such as Municipalities and District Boards should be allowed to introduce this measure in certain areas and levy a local tax for this education. Well, I know that there are objections of that kind and that people think that the Government of India should pay all the expenses. But I do not think that it is fair to the Imperial Exchequer that the Government of India should bear the whole burden: we should also exert ourselves a little. Of course, there are long speeches delivered on public platforms; and there are long articles written in the newspapers, which are very valuable contributions to the solution of the question; but there is something more valuable, which is Rs. as. p., and I believe that the people of the country should cheerfully bear this burden of taxation so that they may be able to raise the condition of the masses of the country. Sir, in this connection I may mention that it gives me a peculiar gratification to refer to the attitude of the Muhammadan community on this question. I believe it was in 1907, at the sessions of the Indian Muhammadan Educational Conference which was held at Karachi (I was present there), that the Muhammadan community cheerfully accepted taxation for the purpose of education. They said that they were quite willing to be taxed if the Government would take this matter into their own hands and provide education for the Muhammadan community. The same thing happened last year in Eastern Bengal, and there also the Educational Conference—I believe it was the annual meeting of the Provincial Educational Conference of Eastern Bengal—passed a resolution praying Government to levy a tax upon the Muhammadan community in order that the Government may be able to provide good sound education for the members of that community. Sir, that is the attitude of one important community in this matter, and I have not the least doubt that my brethren of the Hindu community will also come in line with us and cheerfully bear this burden.

"Sir, if this Bill be passed into law—and I hope that it will pass—the burden will shift from the Government to the people; then the people will realize their responsibility, which is very great indeed, and try to raise the condition of the poorer classes who are steeped in ignorance. We shall be judged by posterity by what we do now. With these few remarks, I have no hesitation in supporting the Bill of my Hon'ble friend Mr. Gokhale."

The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR: "Sir, I have much pleasure in supporting the Bill introduced by my Hon'ble colleague. Last year, when he brought forward his resolution for making primary education free in the country, the trend of opinion, both official and non-official, in this Council was in favour of the acceptance of the principle, although other difficulties lay across its path which prevented the acceptance of his motion in its entirety. Sir, just one year has rolled by since the Hon'ble Mr. Gokhale moved his resolution, and during this period public opinion has matured itself on the subject, and I beg to assure the Government that all shades of opinion all over the country are unanimous in supporting the idea of free primary education. It was only the other day that my Hon'ble friend Mr. Bhupendranath Basu introduced his Marriage Bill, when the Hon'ble the Home Member asked him to show if he had a great volume of public opinion in support of the measure. In this case, Sir, I am very glad to say that the Hon'ble Mr. Gokhale carries the entire public opinion with him. No greater evidence is needed, as has been pointed out by my Hon'ble friend, than that both the Indian National Congress and the Muslim League, which are the accredited representative institutions in the country, have adopted resolutions supporting the idea.

"As the Government is aware, there has been a phenomenal activity in matters educational in the country, and even what are called the depressed classes have been shaking off their lethargy and showing signs of a forward move. The time has come when education should not only be made free but compulsory, for I respectfully submit that it is the duty of the State to stimulate educational activity among the masses by the introduction of compulsion in some form or other. The time chosen by my Hon'ble friend for the introduction of this Bill is, I venture to think, very opportune, and when the Council accords its sanction to the measure, as I fervently hope it will, it will have marked an important epoch in the legislative annals of India upon which future generations will look back with pride and gratitude, and His Excellency's first year of Viceroyalty will be remarkable for a beneficent measure which would be regarded in the light of a boon. Even if the times were not propitious, the Bill as introduced by my friend should have whole-hearted support both in this Council and outside it. For, is it not painful to find that after nearly two centuries of British connection with India the masses of this country should still be in the abyss of ignorance? Lord Curzon had in one of his speeches admitted that one of the first claims upon its bounty that Government would do well to acknowledge will be the education of masses. His Lordship further admitted that it cannot be a right thing that three out of four villages should be without a school, and not much more than thirty million boys, or less than one-fifth of the total boys of school-going age, should be in receipt of primary education. He even went so far as to assert that he was one of those who thought that Government had not fulfilled its duty in this respect.

"Sir, the Bill is of a permissive character and its provisions have been framed with great caution and with due regard for the environs and the life of the people whom it will affect. It is not proposed to extend its operations indiscriminately, but power is sought to be given to Municipalities and District Boards to mark out areas where to make its provisions applicable. An innovation like the one contemplated by the Bill deserves to be carefully made, and the temporary displacement of social economy that it will cause may in the first instance be looked upon as a grievance. The local bodies are familiar with local conditions and have therefore been rightly vested with the direction of applying compulsion as they may think best. And, very rightly too, the Local Government has been made the final arbitrator in this matter, specially as regards the needs and the percentage of school-going children requiring education. We Indians are essentially a conservative race as has been shown by some Hon'ble Members to-day, and any inroad that an innovation makes in the zenana is likely to be jealously watched. Girls therefore have been in the first instance excluded from the operation of the law, a proviso being added for their extension in the case of girls when opportunity is found favourable. The penal clauses of a Bill are always its sore points and the penalties that Mr. Gokhale's Bill provides can by no means be called excessive or in any way



calculated to act as a hardship in case they are enforced, for the penalty prescribed by the Bill is simply nominal. The power with which the local bodies are going to be invested as regards the imposition of an education tax is, I submit, necessary, and although critics may be found of the proposed impost, it cannot be avoided considering the larger and higher interests involved. Sir, the other provisions are of a formal and non-contentious nature and on the whole the Bill as it stands cannot be taken exception to, both as regards the principles and details, and as such I hope and trust will commend itself to this Council. In conclusion, permit me, Sir, to commend it to the favourable consideration of His Excellency's Government, for by doing so His Lordship will not only inaugurate a beneficent measure, but will base his administration on the sympathies of the people whose future generations will point with gratitude to His Excellency's *régime* as having given them the light of knowledge."

The Hon'ble SIR VITHALDAS D. THACKERSEY :—" Mr. President, I rise to support the Bill which has been introduced by my Hon'ble friend Mr. Gokhale. I would have preferred that compulsory education would have been introduced as a national system by the Government of India; but as fears have been expressed as to opposition from the people, I am quite prepared to leave this discretionary power in the hands of the local bodies. At the same time I think that these fears are more or less groundless. I am connected with Baroda, my father and forefathers came from Baroda State, from Dwarka, and there are many other ways in which I am connected with Baroda territory. I often go there, and I took pains last year when I was there to find out exactly the state of compulsory education; and from all the reports that were given to me and from what I saw I was satisfied that compulsory education was progressing very satisfactorily in the Baroda State. I saw some of the parents in some of the villages and found that a large number of the younger generation knew how to read and write, and the parents were proud of their children. In Dwarka, when I was there last year, I tried to enquire into the matter, particularly because the Wagharees are the principal inhabitants of Dwarka, and they are a warlike race. I found that last year, and the year previous the Baroda State had introduced compulsory education and the Wagharees even had taken to it very kindly. So from the experience that we have at hand from the same class of people as we have in British territory, we are led to believe that the fear of opposition is practically groundless; and if compulsory education is introduced, I think a very large number of people will take to it very kindly.

"Then with regard to the other points in the Bill, I think—and I think Mr. Gokhale also thinks in the same way—that the best thing is to have education free, if it is compulsory. A distinction between those who earn Rs. 10 and those who earn more than Rs. 10 will be very difficult to settle. There will be lots of disputes and dissatisfaction, and as my Hon'ble friend the Maharaja of Burdwan has pointed out, sometimes a man getting Rs. 10 a month is better than a man getting Rs. 15. But, as the Hon'ble Mr. Gokhale has pointed out, he has put this limit as a compromise. I do hope, however, that when the matter comes up before the Select Committee, this point will be reconsidered.

"Then there was another argument used by my friend the Honble Mr. Quin that he first wanted to support it very strongly because he thought that the expenditure was to come from local bodies, but now finds that two-thirds of the expenditure is to come out of the Government of India. Now, Sir, I cannot understand what is the difference between the two. The Government of India collect over 30 crores of rupees from the land-revenue. We collect as much as we can from the land, and it is quite fair that a little share out of that ought to be spent in educating the children of the owners of this land. The case in the cities may be different. In the large cities, perhaps local taxation may come out of the house-owners; but so far as the villagers are concerned, I think that the Government of India ought to provide the major part of the expenditure.

"Then, Sir, another argument is used against the Bill, namely, that whoever is in charge of the boy has to send the boy to school. Thus, a responsibility

is thrown on the keeper. And it was asked that good charitable people pick up boys from the roadside and feed them, and why should they be burdened with the further responsibility of sending the boy to school? Now, with regard to those charitable persons who pick up boys from the roadside and pay Rs. 4 or Rs. 5 for feeding a boy, it will not be a burden to have to send him to school, as for educating the boy they have to pay nothing, because education is free, or costs about one anna a month. And, again, I think in our Hindu books we have the old religious precept that *Vidyadan* is more meritorious than *Annadan*—that we should give education to the people even though we do not give food to them. From that point of view, I do not think that charitably-disposed people will grudge paying one anna, if necessary, for educating the boy whom they pick up from the road. Then, Sir, it is said that a little learning is a dangerous thing. It is a common saying and a very sound saying no doubt, but I cannot understand how that saying is applicable in the present case. I may be mistaken, and I should like to know. If it is dangerous, certainly we ought not to support the Bill introduced to-day. But I cannot understand how it can be dangerous if a poor agriculturist can read and write and put his signature to Marwari bills after reading the amount that is mentioned therein, instead of as at present without knowing what the bill contains. I cannot understand how it would be dangerous for these illiterate people if they were prevented from being defrauded by money-lenders and by those who buy their produce. I do not understand how it would be dangerous if they kept their accounts and were in touch with the central markets and knew exactly how their prices compared to the prices in the central markets. Well, Sir, I cannot understand how it would be dangerous if they could read the leaflets that have been mentioned by my Hon'ble friend Mr. Mudholkar, showing the results of the experiments obtained at enormous expense to the Government of India. They could see the fares mentioned on the railway tickets and thus make it unnecessary for the railways to employ special jemadars, as is now the case, to prevent the people from being defrauded by the railway servants. And above all, Sir, I cannot understand how it would be dangerous if they got the benefit of the newspapers now-a-days published for their benefit at great expense from the public Exchequer. For all these reasons, Sir, I think it will not at all be dangerous, and that therefore we ought unanimously to support the Bill proposed by Mr. Gokhale."

The Hon'ble SIR SASSOON DAVID: "Sir, I should like to say a few words only. I admire the exhaustive manner in which my friend the Hon'ble Mr. Gokhale has introduced his Bill to-day. But in my opinion the time has not come for the introduction of free and compulsory education in India. I think the financial position of the country does not warrant its introduction, and before such a step is taken I think ways and means should be adopted by which an annual source of income should be made for all the requirements of the continuously increasing expenses, because if once Government took this step, it would not be right that they should go back on it. I am afraid, therefore, although the Bill has my sympathy, I shall not be able to support it."

The Hon'ble MR. JINNAH: "Sir, I have only a very few words to say on this Bill. I do not want to detain the Council for any length of time. I understand, however, that the object of Mr. Gokhale to-day is to ask leave to introduce the Bill which is before the Council. There are two points to be considered with regard to the Bill: first, the principle of the Bill; secondly, the provisions of the Bill. Now, so far as the principle of the Bill is concerned, it only seeks to do this, that it wants gradually to introduce compulsion into the elementary educational system of our country. So far as that part of the Bill is concerned,—so far as that object is concerned,—the Hon'ble Mr. Gokhale has entire support from me. This question was discussed in the Council before on more than one occasion, but somehow or other I was not able to express my opinion; but I felt that this is an occasion on which I should not give my silent support but I should say a few words. I am convinced that it is high



time now to make a beginning in the direction of elementary education being made compulsory and free.

“Then, with regard to the provisions, I must confess that there is a great deal that requires consideration. I personally am not in a position at the present moment to express my views on the provisions of the Bill having regard to the fact that the Bill was placed in our hands only a few days ago. On the one hand, it is said the Bill is too slow; on the other, it is said that the Bill carries us too fast. But all these questions and all these provisions of the Bill will be discussed in the Select Committee and in the country, as Mr. Gokhale has already pointed out, and I shall have opportunity of discussing them at various stages of the Bill later on. There is one thing which I want to make clear, and that is this. It fell from the Hon'ble Sir Sassoon David, that the time has not come to introduce elementary education in India free and make it compulsory. It seems to me, Sir, that there is a great deal of misconception on that subject. Nobody, as far as I can understand, nobody, so far as I know, no advocate of compulsory education in India, has said that it should be made compulsory and free all over the country at once. All that is desired is that the time has come when a beginning should be made gradually in that direction, and that seems to be the direct object of the Bill now before us. How that object is to be achieved is a matter of details and provisions which I have no doubt will be carefully considered later on, as I have pointed out already. With these few words, I support the Bill of the Hon'ble Mr. Gokhale.”

The Hon'ble BABU BHUPENDRANATH BASU: “I do not think, Sir, that on such an important question as this I should give only a silent vote, though I must confess that up to now I had thought, having regard to the difference of opinion that prevails in my own province, that probably it would be the more prudent course to give a silent vote. But I feel that some misconception has clustered round my friend the Hon'ble Mr. Gokhale's Bill, which I think it is my duty, so far as in me lies, to dispel. Before I go on, Sir, I think that my friend Mr. Gokhale will not consider it impertinent of me to say that he has presented his case in a way which must captivate the imagination of all who have listened to him. He has said that there is a string in the heart of India which vibrates to appeals like this. I can assure him and my Hon'ble friends in this Council that we Indians cannot fail to respond to an appeal which makes it possible for the less happily situated amongst us to avail themselves of the benefits of education. Sir, we have often times said, and I believe said with some degree of justice, that while the rest of the world was enveloped in darkness there was light in our country. It is correct, as I said, to some degree only, for if certain strata of Indian society were illuminated with light, there were a large number of strata in that society which were submerged in utter darkness. The submerged continent of India—if I may say so—was probably great as the lost continent of Atlantis, and we have felt—those of us who have been educated in Western ideals have felt—that the time has come when knowledge should no longer be the special privilege of the few but should be extended to all. In that view it is impossible for us, even for those of us who apprehend that there may be some mischief out of the provisions of Mr. Gokhale's Bill, to withhold our support to Mr. Gokhale's Bill (he will pardon me if I sometimes happen to omit the honorific prefix which to me does not always come very readily). Sir, I fully realise that in the present state of things compulsion pure and simple would be very dangerous. We have, as you know, Sir, too well, on the one hand an ignorant peasantry, and on the other hand we have our well-known methods of compulsion. It is, I believe, not in any way an exaggeration to say that much of the popular discontent that is felt against British rule in India is due to the fact that many of its measures are entrusted for execution to instruments which make them odious, and a fear has been felt by many thoughtful men in our community that if we make education compulsory it is possible that it may have just a contrary effect; that instead of advancing the cause of education it may retard it. People who would voluntarily do things would be unwilling to do the same thing on compulsion. It is quite possible that this compulsive element may to some extent serve to retard the progress of elementary education in the country. But my friend

Mr. Gokhale has so hedged in the compulsory provisions of his Bill that I for one am inclined to think that no harm will be done by adopting his method, and I believe that the criticism that has appeared in the Press is due to an insufficient apprehension of the position that he has taken up. In the first place, it has nothing to do with Government, either Local or Imperial. A Municipality or a District Board decides as to whether it will or it will not introduce compulsory education in this area. Talking of Municipalities, the Municipal Commissioners in Bengal, I may remind my friend the Hon'ble Mr. Dadabhoy, are more or less elected by ratepayers who pay an annual rate of one rupee and a half, so that the very humblest classes are instrumental in the return of the Municipal Commissioners to Municipal Boards, and they will be very chary before they recommend that primary education should be compulsory in their area. If they feel that it is against the wishes of the generality of their ratepayers and the constituency of electors, it is hardly to be expected that they will put forward such a measure for acceptance. The case is, I confess, different with the District Boards as they are constituted in Bengal. The District Boards in our province are more or less officialised, but even then, I believe, the Magistrate has sufficient trouble and burden over him to think of courting unpopularity by suggesting to his members the introduction of compulsory education when such a measure would be unacceptable to many of them—at least to those of them who came by election. In the District Boards in Bengal, half the members in certain areas are elected by the Local Boards, which are again largely elected bodies. So that is the first safeguard which Mr. Gokhale provides, *viz.*, that it is not a compulsion which proceeds from above but it is compulsion which proceeds from below, from the very people themselves concerned in it. Well, Sir, if a large majority of them say that 'we are prepared to send our boys to school', I do not see that there should be any objection to it.

"The next question, and a very serious question, is the question of taxation. I have in my mind very vividly the fate of the road-cess taxation in Bengal. It was introduced, I believe, in the year 1871, on the solemn assurance by the then Secretary of State, the Duke of Argyll, repeated by the Government of India at the time, that the proceeds of that fund (road-cess fund) were to be solely devoted to local needs—local roads, wells, tanks, etc. For many many years after that the proceeds of that fund used to be consistently (the Hon'ble Mr. Slacke will excuse my saying so) misapplied—misappropriated—probably would be a more expressive term. We agitated about it and went on until, I believe, we have come to a state of things when the road cess fund is being applied to its primary objects. In this case, however, I do not apprehend that difficulty, because here again the cess will be levied not at the instance of Government but at the instance of the District Board or the Municipality. Then my friend Mr. Gokhale had said on a previous occasion—I believe he said also to-day—that two-thirds of the expense would be found from the funds of the Imperial or the Local Government and one-third by the ratepayers. If that condition does not exist—a fear has been expressed in some quarters that this probably will not be listened to by Government—if it is not listened to, then there is an end of it; if it is listened to and one-third of the funds are available, the people would contribute to that extent. I do not forget that even the levying of a small cess may be attended with hardship. There is in Bengal the *chaukidari*-tax for which we have the village-*panchayat* who collects these taxes, sometimes very oppressively: the poor man's *lota* or his pots and pans are sometimes sold and he is put to great trouble. It is quite possible, and that is the fear which has been operating upon the minds of many of us who, though approving of this measure, are opposed to it because of this provision. This is pressing upon the minds of many who would otherwise support it, and my Hon'ble friend has not indicated the source or the class of people from which this cess is to be realised. There will be great objection, and valid objection, if this cess were realised from the poor agriculturists or other poor people who are hardly able to pay. But, I believe, if we realise from the class who are otherwise not very heavily taxed and who, I am afraid, do not contribute sufficiently to the revenues of the country—men who have the misfortune to belong to my class—I do not think I for one would much object. The professional



class of the tradespeople and others who only pay the income-tax and others in the same position would I apprehend object, but I believe that a means may be found by which this taxation—all taxation is unpopular no doubt—may not be made very unpopular. Of course, my friend Mr. Gokhale does not indicate in his Bill as to how this taxation is to be raised. If he would indicate this in his reply, our course in our own province would be clear. I was speaking for Bengal, not that we are opposed to it, but that we fear, and many of us fear, that the two elements of compulsion and taxation may be unacceptable and therefore may defeat the object for which Mr. Gokhale has been introducing this Bill. I believe I have sufficiently explained that the element of compulsion does not stand in the way, because analysing the whole situation there is hardly any compulsion. The element of taxation must come in. Well, Sir, is it possible to educate our people out of nothing? That is what we ought to consider; we have been insistent (the middle classes of India) upon the Government paying greater attention every year to the needs of education, specially of the poorer classes. We have pressed for primary education, for secondary education and for University education. The question is, if the expenses of primary education are so heavy as they were made out to be on a former occasion, when the matter was referred for the consideration of Local Governments, how are these expenses to be met? I for one would certainly prefer—and I believe even my friend Mr. Gokhale would prefer—that these expenses should be met out of the Imperial revenues; but I am quite sure that my Hon'ble friend Sir Guy Fleetwood Wilson will at once stand in the way and bar our road to an invasion upon Imperial revenues. Therefore, we must provide some sort of income for this purpose with as little hardship as possible. Of course, that has to be thought out, and it will be better if the country knew, now that the Bill is going to be discussed, as to how this is to be met.

“These are matters which I have taken the liberty of placing before the Council in order that my Hon'ble friends should consider what are the circumstances that are at present pressing upon the minds of the people. With these observations and according my hearty support to the principle of the Bill and expressing my earnest faith that it will be possible to adopt this principle in such a way that it may not press upon our people, I support the Bill introduced by my friend Mr. Gokhale.”

The Hon'ble MAULVI SYED SHAMS-UL-HUDA: “As I am going to support the motion for the introduction of Mr. Gokhale's Bill, I think it necessary to make my position clear. The Bill is one which contains a great deal of controversial matter, and I do not think I will be justified to pledge myself either way in connection with this Bill without ascertaining the views of the constituency which I have the honour to represent in this Council. Personally I am opposed to making primary education compulsory in the present state of the country. Not that I consider it as an unchangeable principle, but I think that the country is not as yet prepared for it. At the same time, Sir, I recognise that Mr. Gokhale has tried to meet the objection by leaving it to the Local Governments to decide whether the provisions of this Bill should be made applicable to any particular area, and I think we may trust to the good sense of Local Governments not to make the provisions of the Bill applicable to places that are not prepared for it. At the same time, I feel that there is some danger in anticipating the times and making legislation not for the present but for the benefit of the future generation. I say so because I think that, as the Bill leaves the matter to Local Governments, it is just possible that for twenty years to come no Local Government in India would think it proper to make the provisions of this Bill applicable to any part of the country.

“Then, as regards the question of taxation, I am very diffident, however enthusiastic I may be in the cause of primary education, whether those whose pockets are intended to be touched would willingly come forward, out of mere love for education, to say ‘we are prepared to submit to additional taxation for such a purpose,’ and it will be a matter for serious consideration whether Government would force a tax of this kind upon an unwilling people.

"There is, Sir, another feature of the Bill as to which, I believe, there will be a strong opposition on behalf of the Muhammadan community. That is the provision which gives the option to District Boards and Municipalities with the leave of the Local Government to make education of girls compulsory. I am afraid, Sir, that for fifty years to come the masses of the Muhammadans will not consent to this part of our friend's Bill.

"However, Sir, having said all this, I must also say that I support the introduction of the Bill. I am not so ardent an admirer of this Bill as my Hon'ble friend Mr. Mazharul Haque, but at the same time I realise that the Bill raises questions of the utmost importance to the country, and it is necessary and desirable that it should be considered in all its details, and the country should be allowed to pronounce its verdict. From this point of view I give my support to Mr. Gokhale's Bill."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA : "Sir, the surpassing ability with which the Hon'ble Mr. Gokhale has introduced his motion, and the fulness and care with which he has explained it, would have led one to think that the measure would receive a ready acceptance at the hands of the Members of this Council. But, as the discussion has shown, there is much misapprehension in the minds of some people regarding it. I submit, Sir, that at this stage of the Bill it is not the details but only the principle of the measure which are to be discussed. And the principle of the measure is one which ought to find a ready acceptance from the Members of the Council and from Government. The Hon'ble Mr. Gokhale has referred in his speech to the well-known dictum of a great American statesman on education—a most passionate exhortation to all men to promote education. It is easy to recall the utterances of other statesmen in other countries who have spoken with equally impassioned earnestness of the benefits of education and of the duty of the State to introduce it among the people. But the Government of India have not been backward in recognising that duty. Indeed, the thought of promoting popular education had not yet dawned upon many Governments which have now out-stripped us when the Government of India in the famous despatch on education of 1854 said :

'Among many subjects of importance none can have a stronger claim to our attention than that of education. It is one of our most sacred duties to be the means, as far as in us lies, of conferring upon the natives of India those vast moral and material blessings which flow from the general diffusion of useful knowledge, and which India may, under Providence, derive from her connection with England.'

"In that despatch, after noticing with satisfaction the progress that higher education had made in the country, the Court of Directors drew special attention to the need of promoting the education of the mass of the people, of conveying useful and practical knowledge, suited to every station in life, to the great mass of the people. They said that they desired to see the active measures of Government more specially directed for the future towards the attainment of that object, and that they were prepared to sanction a large increase of expenditure for that purpose. From that time, Sir, numerous have been the occasions on which the Government of India have repeatedly acknowledged it to be their duty and their intention to promote primary education to the fullest extent. The Education Commission which was appointed in 1882 considered the question and made very clear recommendations as to the promotion of elementary education. They also recommended that an attempt should be made to secure fullest possible provision for the expansion of primary education by legislation suited to the circumstances of each province. But, as the figures given by the Hon'ble Mr. Gokhale have shown, the progress achieved is very small compared with what the declarations of Government would lead one to expect. It is also small compared with the needs of the country. It is regrettably small compared with the progress which has been achieved in other countries. I will not repeat the details of the figures ; it is enough to remind the Council that seven out of every eight children in this country are at present illiterate, and that four villages out of every five are without a school. The question which then arises



is—‘ what is really the cause of this want of progress in this country ?’ I submit, Sir, that the cases of England, Japan, Ceylon and other countries that have been mentioned by Mr. Gokhale establish one principle, and that is that the cause of all this disparity, of all this difference, lies in the absence of the element of compulsion from the system of education in this country. I do not know that there are many documents of State to be found in the archives of other Governments which would compare in their large-hearted benevolence with the despatch of 1854, which aimed at creating a national system of education which was really to benefit the entire masses of the people of India. But, Sir, the despatch rested on the voluntary basis. There was no element of compulsion in it either so far as the Government or the people were concerned, and I submit that the want of progress which we all deplore is due to that circumstance. I submit, Sir, that the strongest argument for the necessity of introducing such an element is to be found in the adoption by nearly all civilised countries of the world of the principle of compulsion and in the success achieved by other countries after they introduced compulsion.

“ The Bill before the Council is an extremely modest measure. It does not seek to introduce compulsion at once and all over the country. It introduces what I may call ‘ permissive compulsion ’ as was done in England in the Education Act of 1870. That Act merely made it possible for the Boards and certain local bodies to introduce compulsion where they thought it desirable to do so. This Bill seeks to make it possible for Local and for Municipal Boards to introduce compulsion within the areas of their jurisdiction and with the sanction of the Local Government. In this it provides a great safeguard against hasty action. But the wisest part of the Bill, if I may say so, is that shifting the power of initiation from the Imperial or the Local Governments on to Local Boards and District Boards. But doing so the Bill provides that there will be progress possible in areas where the people are sufficiently advanced to desire, or to be willing to receive, a measure of compulsory education. It provides for a healthy departure from a policy of entire inaction until all parts of the country have been equally advanced and are prepared for such a measure. If there is to be any unpopularity created by the introduction or compulsion, the provision that the initiative should be taken by the Municipal and District Boards reduces it to a minimum, and even then it ensures that that unpopularity shall fall on the local bodies and not on the Government. If a fairly large proportion of the population are willing to accept such a measure, then, with the sanction of the Government, the measure will be introduced. To the apprehension expressed by the Hon’ble Mr. Quin that there may be faddists who may try to create a feeling among the people in favour of compulsory education, where it does exist, I submit that an important safeguard is to be found in the provision for payment of taxes which they would have to submit to, if the Bill is accepted. Not only in this but in providing for exemptions from payment in the case of the poor, in fixing the age limit, in recommending the creation of school attendance committees which are to initiate action under the penal clauses of the Bill, most excellent safeguards have been provided to make the measure not only unobjectionable but acceptable to the great mass of the people.

“ A great deal of criticism has been passed upon the proposal to throw the cost of elementary education partly upon Imperial and Local Governments and partly on local bodies. It has been said that local bodies should not be required or permitted to find any portion of the cost by increasing the burdens of the people. I may say at once, Sir, that I do not think anybody would rejoice more than the Hon’ble Mover of the Bill if the entire cost of making primary education free were borne by Government. It is right that it should be so borne ; and I have no doubt that in course of time the Government of India will accept the responsibility of providing the entire cost of free and compulsory elementary education throughout the country. But if the Government of India, are not inclined to do so at present, the question is whether, until that time comes, we are to stand still or to move forward with a part of the burden being borne by the people. One or two Hon’ble Members have said that if any compulsory education is introduced, it ought to be free, and they have argued that the two must go together. In their view, to make

it compulsory and not to make it free would be entirely objectionable. I might remind them of the different times and conditions under which elementary education was made compulsory and free in some advanced countries. Take, for instance, the case of England. England introduced the element of compulsion in the Education Act of 1870. That was modified in 1876, and it was not until 1880 that compulsion was made practically absolute. But it was only in 1891 that England made primary education entirely free. Take again the case of Japan. Japan began in 1872; it practically made education compulsory in 1890; but it was not until 1900 that it made its primary education largely free. The view that I would therefore urge is this, that if and when the Government is in a position to bear the entire cost of making primary education free, it ought to do so, because it is one of the most sacred duties which lies upon any Government to bring the light of knowledge to the humblest subject living under it. But if the Government cannot or will not do so, at any rate at present, and if the chance of having compulsory primary education introduced in our country rests only upon part of the burden of it being borne by the people, then we should not hesitate to recommend to the people that they should pay this price for the benefit of education.

"Some speakers who have criticised the Bill have questioned the soundness of the principle. The Government of India has been committed to this principle during the last 55 years, and has on repeated occasions declared it to be its policy to make elementary education practically universal among the people

"I do not think that these criticisms betray much sympathy—as much sympathy as one might reasonably expect from Members of this Council—with the humble masses of the people, when they say that education should not be extended to them lest it might kindle in them desires for a little of that enjoyment of the comforts of life which these critics enjoy in such abundance. In no country have such small-minded considerations weighed with the Government; and I am sure that they will not weigh with the Government here. The Government of India has to its lasting credit been endeavouring for the last seventy years to lead the humblest classes of the community in this direction. There are schools for the backward classes and even for the aborigines established by the Government in different parts of the country. And it is too late in the day for any Member of this Council to say that elementary education should not be made compulsory because it is likely to turn the heads of some of those who may receive it. Turn their heads it certainly will; but it will turn them in a better direction than they are likely to be turned if they do not receive the illuminating light of knowledge.

"As regards the objection that the people will object to pay the taxes, we should remember that the compulsory payment of taxes is in force in municipal matters. People living in municipal areas have to pay certain taxes whether they like it or not for sanitation and for other municipal purposes. It is only the poor that are exempted from these taxes. This Bill also provides a similar safeguard against a hardship on the poor by laying down that those whose incomes do not exceed Rs. 10 per mensem are to be exempted from payment of the education rate that may be levied. This limit may seem to some people to be rather low. It certainly seems to me to be so. I should like to see it raised to Rs. 50 per mensem or at least to Rs. 30 per mensem. But, I submit that if education cannot be made compulsory and universal otherwise than by imposing this burden upon the people, this might be accepted as other burdens in regard to sanitation and other matters have been accepted for the benefit of cities and towns.

"Objection has also been taken to the provision for the education of girls by compulsion. I fear that many of the critics who have dealt with that part of the Bill have not taken sufficient note of the fact that that is merely a prospective provision which gives power to a Local Government to extend compulsion in the case of girls in areas and for communities where such a measure may be demanded by the bulk of the community, and where it does not come into any conflict with the social customs of the people. I am sure, Sir, that no Government will ever introduce compulsory education in the case of girls in India, unless it is satisfied that practically the whole of the population living in a particular area desire it. But if there is a town or if



there is a city where the *parda* does not prevail, and where the bulk of the people apply to the Government that the provision should be extended among them, I do not see why it should not be so. There need be no alarm created by the mere mention of a possible extension of the principle, which is undoubtedly generally accepted as sound in the case of boys, to the case of girls also under proper safeguards. It would be a sad thing to allow half the portion of a community to grow up in ignorance and to be shut out from all the light of knowledge and from all the higher life that knowledge leads to. Since the days of Bentinck and Macaulay, Government has repeatedly declared it to be its duty to extend the benefits of education among the people. It is high time that Government adopted effective steps to give effect in a complete measure to the principles and the policy which it has so long and so consistently advocated. Mr. Gokhale has earned the gratitude of his countrymen, and has done his duty by the Government by suggesting, by the measure he has brought forward, the most effective means by which full effect can be given to that policy. There is nothing in the Bill which should make it difficult for the Government to accept it. It only seeks to give effect to the principles which the Government have advocated for all these many years. It is sound in its principle; it is quite modest in its scope; it is considerate and conciliatory in the safeguards that it provides; and yet it is capable of far-reaching and growing beneficence if it is adopted by the Government. I venture to think, Sir, that nothing will give greater satisfaction or call forth more enduring gratitude from the people, than the acceptance of this measure by the Government. I earnestly hope that Government will be pleased to accept it."

The Hon'ble MR. SACHCHIDANANDA SINHA: "I rise, Sir, to give my most cordial and unstinted support to the principle underlying Mr. Gokhale's Bill. I think the Hon'ble Member may congratulate himself on the trend of the discussion so far. Except one Member, all those who have spoken hitherto have given their support to the principle underlying the measure. I quite appreciate the difficulties of those of my friends here who think that the principle of the Bill is rather controversial. As it is a measure trying to cover new ground, I am not surprised that there are some members who find controversies underlying the principle of the Bill, to some extent. I have no doubt in due course these controversies will be satisfactorily settled. In the meantime, I have much pleasure in supporting the Bill, which, if enacted, will mark an era in Indian history."

The Hon'ble MR. MADGE: "Sir, I wish to support this Bill because' although I disagree with many of its details, indeed most of them I am afraid' yet I hope that in the public discussion that will take place the Hon'ble Mover will be helped with his frankness to adopt whatever improvements seem to him to be really advisable after the changes which I foresee will be suggested.

"My own belief is that the only safe policy to carry out with reference to primary education is that laid down in the despatch of 1854 to which reference has already been made, and which has been endorsed some half a dozen times in the last sixty years by the Government of India itself. Why the Local Governments have failed to respond to the Government of India in regard to this point is more than I can say; but I do hope, Sir, that when this Bill goes down for public opinion all round the country, we shall hear more of that subject. There are just two points, coming nearer to the principle of the Bill than to its details, to which I wish to refer very briefly. The Education Commission Report of 1882 contained a recommendation to which the Government of India, in its resolution of the following year, referred, and that was the appointment of Boards of Education. It was designed, Sir, by those who made that recommendation that at certain periods officials and non-officials throughout the country should meet for discussion so as to lay down lines of practical policy which the Government itself might pursue, and in the intervening years I have often spoken to experienced educationists, both missionaries and officials, who have told me that they thought the Government made a mistake in not insisting upon the establishment of these Educational Boards. These Boards were refused because the

Director in Bengal for the time said they would raise questions of principle which would interfere with the authority of the Directors in the different provinces. That hardly seems to me, Sir, to be a sound reason for refusing a means by which the Government itself could arrive at most valuable information as regards the practical lines which it might assume in educating the masses in this country. Our missionaries, although they are to a large extent given up mainly to religious propagation, also have the supervision of Vernacular schools in which primary education is taught, and in one or two conferences in which I have met them I have heard from them the most valuable practical ideas as to the best ways of promoting primary education, which had nothing whatever to do with any religious propaganda. And on the other hand our Inspectors of Education also acquire on the official side information of the same sort, which if they were to get into contact with non-official opinion, would bring out in my humble opinion very valuable advice as to the line which Government might pursue in introducing primary education into this country.

"The second point on which I wish to speak is this. The Hon'ble Mr. Dadabhoy has referred to District Officers. Though I agree with much that he said, I entirely disagree with him as regards the usefulness of District Officers. I know of no class--"

The Hon'ble MR. DADABHOY: "I must mention that I never said a word against the usefulness of District Officers. My Hon'ble friend has entirely misunderstood the scope of my argument. I think they are very useful officers."

The Hon'ble MR. MADGE: "If my ears have deceived me I withdraw the remark I have made and proceed in a very few words to say that I think there is no class of the public in this country who are better acquainted with the condition of the masses than our District Officers. I think they are better acquainted with them than a great many educated Indian gentlemen who live in cities and never knock about in the mufassal. I have met District Officers in this country in villages where no Indian gentleman who professes to speak for them has ever set foot, and I hope that this class of gentlemen will bring us very valuable information when they speak to us both as regards how much the people will stand in the shape of compulsion, and exactly what they feel about withdrawing their children from labour into schools."

The Hon'ble Raja PARTAB BAHADUR SINGH OF PARTABGARH: "My Lord, I have very great pleasure in supporting the measure that has been introduced by the Hon'ble Mr. Gokhale. At this stage of the proceedings it is not necessary for me to make any remarks as to the various details covered by my friend's Bill. Its publication in the Gazette will draw upon it the criticism of all sections of the people and of the various high officers of the Government, and then we shall be in a better position to understand its defects and merits. But on the main principle of the introduction of free primary education in this country there can be no difference among men who realize the situation of the country. It is no insignificant matter that the enlightened Government of Bombay has instructed its representative not to oppose this measure at this stage. I trust other Local Governments will give this measure as sympathetic a consideration."

"My Lord, as I said last year on a similar occasion, at one time our country was a self-contained one, unaffected—or very little affected—by what went on in other countries. But things now have altered considerably. We have been brought into the focus of world competition. Each country is trying its best to get what it can of the material advantages, and in this competition, if we continue to remain in our present position of ignorance, our position, already pitiable enough, will grow even worse before long. Education is not any more a luxury but a necessity, and as Mr. Gokhale has pointed out it has been made successfully both free and compulsory in a portion of our own country by the enlightened ruler of Baroda. The Government of India cannot afford to lag behind the Government of His Highness the Gaekwar."



"With these few words I heartily support the Bill introduced by my Hon'ble friend, whom I beg to congratulate on the masterly speech with which he has introduced the measure."

The Hon'ble MR. BUTLER: "Before coming to the able and eloquent speech of the Hon'ble Mover and the Bill which he has introduced to-day, and which I may say at once the Government will allow to go forward for criticism and general discussion, I will deal with the nine proposals which Sir Harvey Adamson undertook to examine about this time last year. Six of those proposals are included in the provisions of the Bill itself, and in allowing the Bill to go forward the Government has taken the only action in regard to those proposals that at present they can take. The seventh proposal was that there should be a Secretary specially for Education. The Hon'ble Member has got more than he asked for: he has got not only a Secretary but a Member and a full-fledged Department. I do not know whether this has been too much for him; but from the kind references to me, which I gratefully acknowledge, I can only assume that he is satisfied with this act of the Government. The eighth proposal was that education should be a divided head. We have considered that proposal and we have decided that it is contrary to the policy which animates the whole of our relations now with Provincial Governments and that it is quite unnecessary for the main object which the Hon'ble Member has in view, because there are other ways of advancing education than by making it a divided head. The ninth and the last proposal was that a statement describing the progress of education should be included in the annual Budget Statement. Figures have been collected and they have been published in the Gazette, and I believe that they meet the wishes of the Hon'ble Member.

"And now I turn to the speech of the Hon'ble Member. In introducing his Bill he illustrated with a wealth of detail even greater and darker than last year the backwardness of education in India, our backwardness in regard to literacy and in regard to expenditure on education. He carried us on the wings of his eloquence to the Phillippine Islands and to Ceylon. I confess, Sir, that I see great differences between the conditions in the Phillippines and Ceylon and the conditions which exist in India. I do not myself believe much in these transmarine comparisons. Then the Hon'ble gentleman took us to Baroda, and the Hon'ble Sir Vithaldas Thackersey has told us his own experiences in regard to Baroda. Now, Baroda is admittedly very close to our borders. I share, I endorse to the full, all that my Hon'ble friend has said about the enlightened policy of the Ruler of the Baroda State in regard to education, about the liberal expenditure of the State, and about the boldness of the experiment which he has undertaken in introducing a short time back free and compulsory education on Western lines. I would only say that the matter is still at an experimental stage. I admit from the information that I have received that the experiment is in a hopeful condition, but it is still experimental and it has only been introduced on a large scale after fifteen years' trial in a small part of the State. Well, Sir, many things are possible in a small State under autocratic rule which are not possible on anything like a general scale in a big Empire under a different form of government. As regards the expenditure in Baroda, I do not think it is fair to compare it with the expenditure of the whole of India. The Imperial Government has to spend enormous sums on Imperial defence of which Baroda State gets the benefit and which the Baroda State is not called upon to undergo. Apart from that, if you compare the expenditure in Baroda with the expenditure in Bombay, the adjacent province, you will find that the comparison is far more favourable to the British districts than is a comparison with the expenditure in the whole of India; and I think that it is a fairer comparison to take the province and the people in the vicinity of the thing compared.

"However, I do not wish to go into statistics. I fully admit, and the Government of India has always fully admitted, that it is desirable to spend more money on primary education, and, as funds become available, I have no doubt you will see that money provided.

"As regards the Bill itself, if it were a measure introducing general compulsion, if it were intended in any way to open up at once a very large and

important reform, it would be necessary to criticise it in considerable detail; but the Bill is like the baby in *Midshipman Easy*—a very little one. That has been a cause of complaint against it from some quarters, and the chief merit advanced in its favour from others. The Council will remember the debate which took place in this room last year. It was then the sense of the Council that we should exhaust persuasion before we resorted to compulsion; that when we could not supply the education for which there is a demand, it was unnecessary and unpractical to introduce measures of compulsion for which also we could not find the funds. Now, has the situation changed since then? I was reading only this morning a debate which took place in the United Provinces Council, where the Director of Public Instruction drew a piteous picture of schools shut down for want of money. He talked of the tragic closing of schools in the Benares Division, and when I was at Benares the other day I heard something of that sort, and he represented his province as being in the position of the 'hungry sheep who look and are not fed.' Well now, when that is the case, I do not think it is necessary for us to consider whether measures of compulsion are generally necessary and if, as I say, this were a Bill of universal application, I should have to point out that no Municipality or District Board has ever asked for these powers; and in fact the only Municipality which, as far as I know, has discussed them at length and with care—the very enlightened Municipal Corporation of Bombay—came to a decision adverse to the principle of compulsion. I need not say anything about the prospects of taxation which have been fully discussed by some Hon'ble Members in this Council; and Hon'ble Members have also dealt with another danger which, in any large measure of compulsion, would assume very large proportions, and that is the instruments by whom attendance would be ensured. In order to have any large and effectual measure of compulsory attendance you would have to have an army of underlings, and we should be brought face to face with those great difficulties which we always have in the administration of this country and which are summed up in the words 'the feet of clay.' There are, therefore, many difficulties in the way of compulsion on anything like an extensive scale; but I do not wish to say that these difficulties are necessarily insuperable in all cases, and I recognise the Bill—the Government of India recognise the Bill as a very moderate measure. And, as this matter has never been seriously discussed by the public of the country, the Government of India are glad that it should go to Local Governments and Local Bodies and that it should be thoroughly discussed and thoroughly considered by that large body of the public who are interested in this question. Until we get the opinions of the Local Governments and of the Local Bodies, the Government of India must reserve their opinion fully and entirely. But I may be allowed to say one word. I hope that those to whom this Bill is referred for consideration will extend towards it that seriousness and earnestness which has marked the speech of the Mover of this Bill. It is a very large and important matter for this country: it may be premature or it may not be: it may be that we are on the verge of great movements in education or it may be that we shall have to wait for them. But the course of the Government of India is quite clear. It has laid down its policy in regard to primary education in unmistakeable terms. A hundred years ago, exactly a century ago, in the year 1811, Lord Minto, who looks down upon us in this Council from that wall, penned his famous Minute in which he said—for the first time in the course of British rule, it was then said—that the ignorance of the people was subversive to good government and conducive to crime. Sir, the Greek hero caught in the mist prayed for light to see his enemies. Ignorance is our enemy; and our prayer is for light to expose and shatter that insidious foe."

The Hon'ble MR. GOKHALE: "Sir, I have surely no reason to be dissatisfied with the reception which the Bill has met with at the hands of the Members of this Council. No man has the right to expect—and I certainly did not expect—that any proposals that he brings forward on a subject of such importance would be accepted by a body like this Council without any criticism; and if I rise, Sir, just now, to speak a second time, it is for two reasons. In the first place, I wish to express my sense of obligation to the Hon'ble Mr. Butler personally, and to the Government of India generally, for the



attitude they have adopted towards this Bill. The attitude is no doubt cautious but it is not unfriendly, and it certainly goes as far as I had ventured to expect—I had not expected that it would go further than that. The second reason why I wish to say a few words before this debate is brought to a close is that I want to clear certain misconceptions to which expression has been given to-day, about some of the provisions of the Bill, as also about my object in bringing the Bill forward. Sir, as I pointed out in the course of the remarks with which I asked for leave to introduce this Bill, if there is one fact established more clearly than another in the history of primary education, it is this, that, without compulsion, there can be no universal diffusion of education. You may shake your heads—anybody can shake his head—and say that the time for compulsion has not come; that we shall try the experiment on a voluntary basis; that we shall wait for some time; that we shall achieve here what nobody else has achieved elsewhere. Anybody may say this, but, as sure as we are here, as sure as we are discussing this question in this Council to-day, I say that everybody will in the end recognise that without compulsion it is impossible to secure the universal diffusion of education throughout the country. That being so, the only effective and proper course is to suggest that the Government should introduce compulsion. And if the Government of India had not been beset with its peculiar difficulties, I should have urged it to take up this question and introduce compulsion on its own account. But, as I have already observed, there are several considerations which render such a course difficult, if not impossible. And since that cannot be, I am content to proceed on other lines and to try a measure, such as I have brought forward to-day. Sir, my Hon'ble friend Mr. Dadabhoy says that District Officers hold a very strong position on District Boards, and therefore, if this Bill is allowed to become law, District Officers, who may find no difficulty in getting the sanction of the Local Government, may use their position on the Boards to introduce compulsion. If this really happens, I say at once that I shall rejoice, because it will really mean that the Government will be accepting its own responsibility and introducing compulsion. I do want the Government to introduce compulsion if only it will do so; but as the Government will not do it, we have got to see what else we can do, and that is why I want this Bill.

“Sir, as far as I have been able to gather from to-day's discussion, hardship is apprehended in regard to three matters in carrying out the provisions of this Bill. The first is that District Boards, which are largely under official influence, might introduce compulsion, though the people may not be prepared for it. But I have already pointed out that the Government of India will first of all lay down the standard which must be satisfied by any local body before it introduces the principle of compulsion. I myself have suggested a limit of 33 per cent., but as the matter has been left to the Government of India, I think, if ever this Bill becomes law, that they are likely to adopt a higher limit than 33 per cent. of the school-going population being at school. And a limit of even 33 per cent., not only now but for several years to come, will not be satisfied by any District Board. It will no doubt be satisfied by several Municipalities, but that is another matter. Therefore I do not think that the fear expressed about hasty action by District Boards is well-founded. If after the country has been familiarised with the idea of compulsion for some time, District Boards also follow in the wake of Municipalities, I do not think that there would be any reason to regret such a development. Then, Sir, a great deal has been said about the hardship which may be caused by empowering these bodies to levy a special education cess. My friends who have spoken have ignored the fact that the cess, when levied, is to be levied by the local bodies, and that it will require the sanction of the Local Government before it is levied. Those who say that the local bodies might consist of idealists and might be hasty in their action stand on a different footing from those who object to any special cess at all. To the former, I think it is a sufficient answer to point out that there is the Local Government to check idealism if there is any tendency in that direction. But there are those who object to any cess at all, and they have strongly urged to-day that it would be a calamity, a disaster, if any cess is ever levied in order that primary education might be made compulsory. Sir, I am unable to accept this opinion. On the other hand, I feel,

strongly that, if primary education is ever to be compulsory, local bodies will have to bear a fairly large share of the burden which it will impose. This is the case in all countries where the system of compulsory education prevails; and those friends of mine who object to the levy of a cess might as well object to compulsory education and be done with it. I admire, Sir, my Hon'ble friend Mr. Dadabhoy's candour and consistency. Mr. Dadabhoy is against the levy of a local cess which may have to be imposed in order that the children of poor people may be educated. Mr. Dadabhoy the other day proposed that the excise-duty on cotton goods should be done away with, not on the ground that its burden falls on the consumers who are the poorest of the poor, but because the amount, if added to the profits of the mill industry, will mean a better return for the mill-owners. Mr. Dadabhoy also wants unrestricted hours for factory labour, for that means better dividends for capitalists. He is consistent all through; but his consistency need not appeal to this Council; and I think an attitude like his will hardly commend itself to those who wish well to the masses of the people. Sir, my fear is that, if this Bill ever becomes law, our financial difficulties will then only begin. It is not the cess that will constitute the real difficulty; it is the share that will have to be borne by the Government. The bulk of the money has to be found by the Finance Department of the Government of India, and I fear in the Hon'ble Sir Guy Fleetwood Wilson (I am sorry he is not in his place—I should have liked to say this in his presence) we shall probably find a dragon in the path. However, we shall have to agitate in this matter as in other matters, and I think an important lever has now been put into our hands by the Government by the creation of the new Education Department. Surely the Education Member must have something to do, and if he is to do anything, they must give him money to spend. I think that that will be our lever, and if we use the lever properly, the Government will find the money we want in the end. There is no reason why we should not entertain this hope. That is what every civilized Government is doing for its own people, and that is what we are entitled to expect from our Government. The third fear expressed is about extending compulsion to girls at the present stage. Sir, I have already expressly stated that the intention is that the education of girls should for the present continue on a voluntary basis, though I certainly hope that before long the necessity of putting that education on the same footing as that of boys will be recognized, and the Bill only takes powers for that time when it comes. Remember that Baroda has compulsion even to-day for girls as well as boys. My Hon'ble friend Sir Sassoon David says that the time for compulsion has not yet come. Will he tell us when the time for compulsion arrives? Will he tell us how and why it has arrived in Baroda and not in British territory? Will he tell us how it has arrived in Ceylon and not in British territory? Will he tell us why, when the Philippino Municipalities have introduced compulsion, our own Municipalities should not? Of course, if you merely assert that the time has not arrived and stop there, it is not possible to argue with you. The Hon'ble Mr. Butler declines to accept my analogies and says that the state of things in this country is different to what it is elsewhere; and as regards Baroda, he says that it is governed autocratically and that makes a great difference. Western countries will not do, because they are governed democratically! Baroda will not do, because it is governed autocratically! I suppose the Hon'ble Member will not be satisfied unless I produce the analogy of a country, governed bureaucratically; and as there is no other country governed as India is, he is safe in insisting on such an analogy, and I must say I give it up. Sir, I will now address only two words in conclusion—one to the Government and the other to my non-official colleagues, and then resume my seat. To the Government I will merely put this question: are you content to lag behind Baroda? Every day that passes, while Baroda has a system of compulsory education, and we have not—every day that passes like that, material is produced which will go to build up a judgment against you; and I am quite sure the conscience of the Government will, before long, be roused to this question. You may say what you like in defence of the existing situation; but you are bound to realize that you cannot lag behind Baroda, and I am convinced that the question of compulsion is for us now only a question of time. To my non-official colleagues I will say this: if we are not prepared to bear a cess for



educating the children of the mass of our own people, if we are not prepared to make sacrifices for so great an object, if we expect the money to drop from somewhere—and remember, even if the Government raise it by additional taxation, after all it is we who shall pay it,—we may as well cease talking about improving the lot of the mass of the people. Sir, if we want our country to advance, there is only one way, and that is that the mass of the people in this country must be raised to a higher level. This can only be achieved by the spread of education, which in its turn requires a large expenditure of money. And a reasonable part of this money must be raised locally, as is being done in other countries, or else we may leave the matter well alone. Sir, I do not wish to say anything more. I once again beg to express my obligations to the Hon'ble Mr. Butler and to the Government for the attitude they have adopted towards this Bill, and I am also most grateful to those Hon'ble Members who have accorded this measure their cordial support."

The motion was put and agreed to.

The Hon'ble Mr. GOKHALE introduced the Bill and moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the *Gazette of India* in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA ;  
The 29th March 1911. }

## APPENDIX A.

*Officers appointed to the Indian Educational Service between the years 1898 and 1911.*  
*(Referred to in the reply of the Hon'ble Mr. S. H. Butler to the Hon'ble Mr. S. Sinha.)*

1899.

## MADRAS—

R. S. Thorne.  
 J. B. Bilderbeck.  
 A. G. Bourne.

## BOMBAY—

C. Burns.

## BENGAL—

M. A. Stein.  
 J. Wilson.  
 A. C. Edwards.  
 J. S. Slater.  
 J. Mann.  
 C. Russell.  
 P. K. Ray.

## PUNJAB—

P. Brown.

## CENTRAL PROVINCES AND BERAR—

A. C. Sells.

Total appointments made 13.

1900.

## BOMBAY—

Miss May Sorabji.  
 H. N. Allen.  
 A. C. L. Wilkinson.

## BENGAL—

J. J. R. Bridge.  
 A. Macdonell.  
 E. F. Mondy.  
 H. M. Percival.  
 C. E. Cullis.  
 V. H. Jackson.  
 H. E. Stapleton.

Total appointments made 10.

1901.

## MADRAS—

Miss Edith A. Gow.  
 Miss E. A. Rhenius.

## BOMBAY—

F. B. P. Lory.

## BENGAL—

W. Tate.  
 E. D. Ross.  
 W. H. Everett.  
 Harinath De.

## PUNJAB—

F. J. Portman.

Total appointments made 8.

1902.

## BOMBAY—

Miss Alice M. Forbes.  
 Miss Mercy Ashworth.  
 J. Brett.

## BENGAL—

W. W. Hornell.

## UNITED PROVINCES—

J. Patterson.

## PUNJAB—

M. Crosse.

## BURMA—

S. M. Douglas.

Total appointments made 7.

1903.

## MADRAS—

J. M. Hunter.  
 R. Littlehales.  
 A. J. Mayhew.  
 P. P. Braithwaite.

1903—contd.

## BOMBAY—

M. Hesketh.  
 P. Hide.  
 P. Wren.

## BENGAL—

M. E. DuS. Prothero.  
 J. A. Cunningham.  
 F. Turner.  
 P. B. Mukerji.  
 L. Tipping.

## PUNJAB—

R. H. Gunion.

Total appointments made 13.

1904.

## MADRAS—

Miss M. Scott-Coward.  
 P. F. Fyson.

## BOMBAY—

F. W. Clarke.  
 Miss M. E. Chubb.

## BENGAL—

Miss L. Brock.  
 E. R. Watson.

## UNITED PROVINCES—

P. S. Burrell.

## PUNJAB—

G. S. Brett.  
 J. C. Godley.

## CENTRAL PROVINCES AND BERAR—

K. B. Williamson.  
 R. M. Beadon.  
 Miss Ada Haes.

## CHIEFS' COLLEGES—

T. Kelly.  
 F. A. Leslie Jones.  
 T. F. Madden.

Total appointments made 15.

1905.

## MADRAS—

Miss C. Mary Lynch.

## BOMBAY—

Miss A. E. Brooke.  
 E. A. Wodehouse.  
 E. H. McDougal.  
 J. T. Turner.  
 H. G. D. Turnbull.

## BENGAL—

T. Richardson.

## UNITED PROVINCES—

J. J. Durack.  
 E. A. Radford.  
 H. C. Norman.

## PUNJAB—

G. A. Wathen.  
 H. G. Wyatt.  
 H. Y. Langhorne.

## BURMA—

C. A. Snow.  
 E. D. Marshall.  
 M. Hunter.  
 A. L. Hetherington.

## EASTERN BENGAL AND ASSAM—

J. R. Barrow.

## CHIEFS' COLLEGES—

J. R. Cornah.  
 C. C. H. Twiss.

Total appointments made 20



## 1906.

## MADRAS—

J. A. Yates.  
T. O. Hodges.  
Miss H. W. Bernard.  
R. G. Grieve.

## BOMBAY—

F. W. Marrs.

## BENGAL—

R. S. Varley.

## UNITED PROVINCES—

W. K. P. Ffrench.  
E. A. Jermyn.  
H. N. Randle.

## PUNJAB—

B. M. Jones.

## EASTERN BENGAL AND ASSAM—

Miss E. A. Garrett.

## CENTRAL PROVINCES AND BERAR—

R. H. Beckett.  
C. E. William Jones.  
J. C. Evans.

Total appointments made 14.

## 1907.

## MADRAS—

W. E. Smith.  
C. L. Cartwright.  
W. S. Hadaway.

## BOMBAY—

W. Rowbotham.  
O. H. T. Dudley.

## BENGAL—

H. Lambert.  
J. R. Cunningham.  
Miss Mary Honeyburne.

## UNITED PROVINCES—

Miss E. M. West.  
N. A. Rust.  
A. D. Imms.  
E. A. Richardson.

## PUNJAB—

A. J. Ross.

## BURMA—

J. P. Bulkeley.

## CENTRAL PROVINCES AND BERAR—

A. C. Bray.

## CHIEFS' COLLEGES—

V. A. S. Stow.

Total appointments made 16.

## 1908.

## MADRAS—

H. Champion.

## BOMBAY—

R. Marrs.  
H. G. Rawlinson.  
K. N. Colville.  
N. B. Macmillan.

## BENGAL—

W. C. Wordsworth.  
E. L. Preston.  
J. MacLean.  
E. P. Harrison.  
O. P. Moncton.

## UNITED PROVINCES—

Miss H. G. Stuart.  
H. Banister.  
E. Stokes.  
A. H. Mackenzie.  
G. Gardner Brown.  
S. G. Dunn.

## 1908—contd.

## BURMA—

J. M. Symms.  
A. D. Keith.

## EASTERN BENGAL AND ASSAM—

J. A. Richey.  
R. B. Ramsbotham.  
F. W. Sudmerson.  
W. G. Duncan.  
T. O. D. Dunn.

## CENTRAL PROVINCES AND BERAR—

E. A. Macnee.

## CHIEFS' COLLEGES—

W. Fanshawe.

Total appointments made 25.

## 1909.

## MADRAS—

O. J. Couldrey.  
H. O. Kershaw.

## BOMBAY—

G. Anderson.  
L. P. Saunders.  
Miss E. Corkery.  
R. S. Cree Brown.  
Dr. C. J. J. Fox.

## BENGAL—

G. E. Fawcus.  
E. F. Oaten.  
T. S. Sterling.

## UNITED PROVINCES—

J. L. Watson.

## PUNJAB—

R. Sanderson.

## BURMA—

H. S. Davis.  
G. R. T. Ross.

## EASTERN BENGAL AND ASSAM—

F. B. Wilkins.  
G. F. Shirras.  
E. E. Biss.  
J. A. Taylor.

## CENTRAL PROVINCES AND BERAR—

E. G. G. Kilroe.

## CHIEFS' COLLEGES—

F. L. Nicholls.

Total appointments made 20.

## 1910.

## MADRAS—

J. L. Simonsen.  
E. W. Green.  
C. de StC. Ransford.  
H. Dodwell.  
M. Stuart.

## BENGAL—

K. S. Caldwell.  
J. W. Holme.

## UNITED PROVINCES—

W. S. Armour.  
C. P. W. Lloyd.  
W. Ferrier.  
H. R. Harrop.

## PUNJAB—

F. R. Tomlinson.

## EASTERN BENGAL AND ASSAM—

E. Smith.  
C. J. Henderson.

## CENTRAL PROVINCES AND BERAR—

A. Jones.

## CHIEFS' COLLEGES—

J. M. Ashcroft.

Total appointments made 16.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 TO 1909 (24 & 25 VICT., c. 87, 55 & 56 VICT., c. 14, AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Friday, the 17th March 1911.

PRESENT :

The Hon'ble MR. J. L. JENKINS, C.S.I., Vice-president, *presiding*,  
and 58 Members, of whom 53 were Additional Members.

MUSSALMAN WAKF VALIDATING BILL.

The Hon'ble MR. JINNAH : " Sir, I beg to move for leave to introduce a Bill to define the rights of the Mussalman subjects of His Majesty to make settlements of property by way of *wakf* in favour of their families and descendants. Before I proceed with the merits of this Bill, I have to express my grateful thanks, not only on my own behalf, but on behalf of the Mussalman community, to His Excellency the Viceroy for having accorded the sanction which was thought by the advisers of Government necessary under section 19 of the Councils Act of 1861. Before I deal with the merits of this Bill, I want one point to be made clear, and that is this. Ever since the well-known decision of the Privy Council in 1894 which is known as the case of *Abdul Fata Mahomed Ishak v. Russomory*, (reported in L. R. 22 Indian Appeals, page 76), there has been a very strong feeling and agitation amongst the Mussulmans against the decision. That feeling has been expressed in various ways, by sending memorials to Government, by passing resolutions in different associations and conferences and gatherings, and it has been going on for more than 15 years now all over the country. That being the state of the feeling of the Mussalman community on the subject, last year I put certain questions to Government and replies were given to me by the Government of India. These questions I shall trouble the Council with because they show that the Government at that time recognised that very strong objections were entertained against the decision of the Privy Council. The questions that I put and the answers are as follows :

' Are the Government aware that there is a strong feeling prevailing amongst the Muhammadans against the present state of *wakf* law as expounded by the recent decision in Privy Council ?

' Does the Government propose to take steps to bring the law on the subject into conformity with the text and the wishes of the Mussalman community ? If so, how soon ?'

" The answer was :

' The Government are aware that objections are entertained to the exposition of the law on the subject of *wakf* contained in various decisions of the Judicial Committee of the Privy Council. As at present advised the Government are not prepared to undertake legislation with the express object of upsetting judicial decisions to which exception is taken. They are, however, ready at any time to accord their fullest consideration to any specific proposals for legislation directed with the object of securing family settlements of a limited nature, provided that such proposals are generally approved by the Muhammadan community.'

" After this answer was given by Government I had the opportunity of consulting leading Mussalman in this country, and it was after a great deal of



consideration I decided that the only way in which this question, which is of paramount importance to the Mussalman community, can be solved was to bring a Bill in this Council. I mentioned that there has been agitation going on for many years. Recently the Moslem League, which represents a great volume of Mussalman opinion in this country, at its last session passed a resolution to the effect that Government should undertake this legislation. A society known as Nadba-ul-Ulma, which is composed of learned Maulvis and men learned in the law, I believe has sent in a memorial to Government. I do not know whether it has actually been received by Government, but I know this, that the memorial was sent round for signature, and thousands of signatures have been obtained all over the country from the Mussalmans, and I believe it has been sent to Government. If it has not, it is on its way to Government. A copy of that memorial was sent to me by that great and learned Maulvi, who is known as Maulvi Shibli, and who exercises a great influence over the Mussalman community, and whose opinion is of the greatest value to the country, so far as the Mussalman community is concerned. In that memorial he quotes authorities on the subject and points out what the feeling of the community is, and I will just read a passage from it :

“During the last few years the feeling amongst Muhammadans upon the subject has been growing strong, and it has found expression in various ways. At the meeting of the Moslem League and other Muhammadan Conferences, Sunni and Shia, associations of a social and religious character, resolutions have been passed inviting the Government of India to undertake legislation upon the subject. Khan Bahadur Maulvi Muhammad Yusuf, a leading Vakil of the Calcutta High Court, a great Muhammadan lawyer, submitted an elaborate pamphlet to the Government of India sometime ago. The Right Hon’ble Mr. Syed Amir Ali has written strongly and clearly upon the subject, and Syed Hussain Bilgrami, who was recently a member of the India Council of the Secretary of State, also approached Lord Morley on the subject.”

“Therefore, you will see that the feeling in the country on this point is very very strong. The question now before the Council is, what is this question that has been agitating the Mussalman community? As I said, it is the decision of the Privy Council in 1894 that has, to our mind, paralysed the Mussalman law, so far as the power of a Mussalman is concerned, to make trusts for his family, his children and his descendants. The legal history of this question goes as far back as half a century and more. The first decision that I am aware of was pronounced in 1838, and several other decisions followed that decision, but not directly touching this question until 1873, when the decision of the Bombay High Court was given on this point, which ruling definitely marked the era of adverse current of decisions. Since then several pronouncements have been made all over the country by different High Courts more or less conflicting until 1894, when the decision of the Privy Council, the highest tribunal in the empire, gave the severest blow to the Law of *Wakf-al-aulad*. The subject I may tell you is this. There are two things known to Mussalman law—one is *hibba* and the other is *wakf*—two institutions. *Hibba* in other words means out-and-out gift. The Muhammadan law permits a Mussalman to make a gift of his property out-and-out. That is to say, he gives delivery of possession and is done with it—what an English lawyer would call conveyance out-and-out. He cannot under the law of gift create different estates, such as life estates, remainder, vested remainder, and continued remainder. He cannot therefore make any provision of any future character for his family or his children; he has got to give away the property straight off. Then comes the other branch of the Mussalman law which is known as *wakf*. *Wakf*, as I understand, is analogous—somewhat analogous—to the law of trusts in the English law, and that again is divided into two parts: it may be private trusts with ultimate reversion to charity, or it may be charitable trusts pure and simple, or, in other words, private trusts with ultimate reversion to charity or pure and simple charitable or religious trusts. Now, the question that we are concerned with in this Bill is the question of private trusts with ultimate reversion to charity, because even to-day, according to the Mussalman law as well as the laws of all other countries, well-known to all the jurisprudence of different countries, you may dedicate property to charity in perpetuity and the rules that offend against the law of perpetuity do not apply. However, we are only concerned with the trust

which I would call private trust with ultimate reversion to charity. Here I may remind the Council that the testamentary power of a Mussalman is limited. He can only dispose of one-third of his property by will. That again is subject to the same rules as *hibba* or gift, that is to say, he cannot create life estates or various others estates known to the English or any other law of trust, and what is more, the testamentary disposition cannot be made in favour of heirs, or any particular heir unless all the heirs consent to it after the death of the testator. Now, as I said, in the Bombay High Court the decision was laid down against the Mussalman law in 1873. After that, in 1882 and in 1884, other decisions came and in a way overruled the previous decision, and this sort of conflicting decisions were given and various pronouncements were made in different High Courts in India until in 1894 we came to meet the decision of the Privy Council which lays down in substance as follows :

"It says that *wakf* of this kind, namely, the *wakf-ul-aulad*, is governed by Muhammadan law. No doubt therefore we cannot go beyond the pale of that law, but they say that there must be a substantial dedication to charity. What is substantial dedication to charity? This is not defined in any way at all. They further go on and say that that substantial dedication to charity must be at some period of time or other presumably not too remote. They do not fix any limit upon the time or period. Therefore it has introduced the greatest uncertainty in our law. A Mussalman who wants to make a *wakf* of this character—*wakf-ul-aulad*—does not know at what period of time the charity should come in under the deed. He does not know what would be considered substantial dedication to charity by any Court of Law. One Court may hold that the charity should come in after the first life because the words are 'some period of time or other;' another Court may hold that the charity should come in after two lives; and so on and so forth.

"Again, what is substantial dedication to charity? One Court may hold that one-sixth is enough; another Court may hold that there should be at least half; and so on. Therefore, these two propositions laid down by the Privy Council have introduced the greatest uncertainty in our law. But the main point, the principal point, we are concerned with, is the proposition of the Privy Council that, unless there is substantial dedication to charity, the *wakf* is illusory and therefore bad. We say, with the greatest deference and utmost respect for the Lords of the Privy Council, that that decision is not in accordance with the true principles of Mussalman law, and their exposition of our law is opposed to the fundamental principles of Islamic jurisprudence. If a man cannot make a *wakf-ul-aulad* as it is laid down in our law, then it comes to this, that he cannot make any provision for his family and children at all, and the consequences are that it has been breaking up Mussalman families. Of course, the result of this decision has been, first of all, that *wakfs* have been hunted down. Ancient *wakfs* that have been in existence and operation for years have been hunted down in all parts of India and have been declared invalid. That is one effect of the decision. The other effect of the decision is that it prevents you from making any settlement in favour of your family and children. Therefore, Sir, that being the state of our law at the present moment, the Mussalman community feels that the only way in which it can possibly put this state of things right is by an appeal to legislation. I do not wish to cite the authorities here or the law here. I do not wish to take up the time of the Council unnecessarily, but I hope that I have made my points quite clear.

"The opinions of the greatest lawyers, such as the Right Hon'ble Mr. Amir Ali who is well known, are fully set out in his book, which is the text-book on Muhammadan law; the opinion of Sir Rowland Wilson, who is another eminent Muhammadan lawyer and an author of a very well-known book on Mussalman law, is also to the same effect. I only propose to quote a passage from his book which collects all the translations of all the text-books on this subject, and, after giving all those translations, the conclusion that he comes to is this:—

(See Wilson's *Muhammadan Law*, 3rd Edition, page 478.)

'Mr. Justice Amir Ali, both in his book and in two memorable judgments, has accumulated a mass of testimony to the same effect from other untranslated Arabic works. But the above extracts from a standard work accessible to all students in its English dress are



surely as conclusive (in the absence of contrary evidence) as any affirmative testimony can be as to the practice of Indian Muhammadans of the Hanafi persuasion at the date of that compilation (17th century) and also of the practice in Central Asia at the date of the principal text-books relied on by the compilers (12th and 13th centuries). It may be added that the Turkish practice as described by D'Ohsson a century ago was substantially the same and that the Shia and Shafeite authorities are quite at one with the Hanifites as to the validity of settlements on descendants as has been shown under sections 460 and 484.'

"Therefore, he comes to the conclusion that the decision of the Privy Council is not in accordance with Mussalman law.

"Then there is one more passage I will trouble the Council with which comes also from a very great authority, Sir W. C. Petheram, once the Chief Justice of Bengal. After the decision of the Privy Council he happened to take an opportunity of writing an article in the *Law Quarterly Review* of 1897 in which he devotes a great deal of his attention to the original authorities and comes to a conclusion to which I will draw the attention of the Council. It is an article headed 'The Muhammadan Law of Wakf'. He goes into the history of the various judicial pronouncements, and he sums up thus:—

'The judgment of the Judicial Committee as delivered by Lord Hobhouse contains a passage for which I am sure the inhabitants of India as well Hindus as Mussalmans will be grateful. It is as follows: "Amongst the very elaborate arguments and judgments reported in *Bikani Meah's* case some doubts are expressed whether cases of this kind are governed by the Muhammadan law, and it is suggested that the decision in *Ashanulla Chowdhri's* case displaces Muhammadan law in favour of English law. Clearly the Muhammadan law ought to govern a purely Muhammadan disposition of property." After the judgment of the Full Bench had appeared, the subject was a good deal discussed by Muhammadans in India, and I was struck by the fact that every Muhammadan who spoke to me on the subject agreed with Mr. Justice Amir Ali; and they all, both lawyers and laymen, asserted that there was no doubt that a *wakf* as understood by Muhammadans was such as he had described it in his judgment. At about the same time I had a conversation on the subject with a gentleman who then occupied a very important position in the Government of India but who had spent many years in official positions in Muhammadan countries. He assured me that the law as laid down in the majority of the Full Bench was not in accordance with Muhammadan law and that it was within his own knowledge that a very large portion of land both in Turkey and Egypt was held under family settlements created by way of *wakf* constituted and conditioned in the way which Mr. Amir Ali asserts is lawful according to Muhammadan law. As the matter appeared to be of considerable importance I have thought it worth while to endeavour to ascertain how the law on the subject is understood and administered at the present time by Muhammadan Judges in Muhammadan countries and have quite easily obtained two French translations of books which appear to deal with the whole subject and to indicate how the institution is regarded in Turkey, Arabia and Egypt.'

"Here I may pause for a moment and point out that at one time it was thought that the Mussalman law did not apply to *wakf-ul-aulad* and that the English rule of law offending against perpetuity should be made applicable to it. That view hinted at by the previous decisions was absolutely displaced by Lord Hobhouse in that well known case 22 Indian Appeals, page 76, in the clearest terms:

'Clearly the Muhammadan law ought to govern purely Muhammadan dispositions of property.'

"Then he gives those translations. Therefore, you will see, Sir, that at the present moment, while the position of the Mussalmans under the Privy Council decision is, so to say, an *impasse*, in other countries such as Turkey, Arabia, Egypt, and I believe, although I am not quite sure, but I believe that even in Native States in India, such as the Nizam's dominions and others, the true Mussalman law is administered in matters of this kind. Then, if that is so, and so far if we are right that the exposition of the Privy Council of our law is not correct, the question which then arises, Sir, is this: are we to be left in this position which I have described? Is the Muhammadan to be deprived of his power, of his right which is given to every one under any system of jurisprudence, to make an adequate provision for his family and children? You have, on the one hand, by this decision, taken away that power. On the other hand, there is no corresponding power under the Mussalman law which enables him to get over it. Therefore, if I may put it in this way, you have cut off an important limb of the body jurisprudence of Islamic law and it has not been replaced by

anything at all. Therefore, Sir, as I said, the question is, are the Mussalmans to be left in this position? If yes; we all know that the institution of *wakf* is entirely interwoven with the religious life, the social life and the basic principles of economy of the community, and the result would be—and is—disruption of Muhammadan families; the result is a revolution in the law of property under Muhammadan law. Here again I will quote from the memorial referred to above. In that memorial it is said:—

‘It has long been felt by the Muhammadan community that the result of certain decisions of the Judicial Committee of the Privy Council in cases of Muhammadan family settlements which have gone up before them on appeal from Indian Courts has been the breaking up of an institution which rests upon the highest religious and social sanctions and which in the past has saved a large number of Muhammadan families from destitution while it has at the same time enabled pious Muhammadans to practise what they look upon as an act of great religious merit.’

“On this point, I may here draw the attention of the Council to the words of a great Russian professor who approves of this system, which may appear to an English lawyer trained up in principles of English law as bad for various reasons looked at from the point of view of English jurisprudence. But we have to take each system of jurisprudence by itself. The Russian professor, who has studied this question it seems with very great care, is of this opinion:—

‘It is a most rational and happy solution of economic problems which must have often troubled parents solicitous about the future of their descendants.’

“Therefore, on economic principles he seems to think that it is the best solution that you can possibly have. Well, Sir, that being the position, we feel that the only way open to us is to appeal to our Government; and here to-day I appeal to our Government, and I ask you, Sir, that the Government of India should give every support to this Bill. This Bill is not intended in any way to lay down any new law or new principle. This Bill is only intended to reproduce the Mussalman law which has been disturbed by the decisions of the Privy Council. It is not intended to define the general law of *wakf* which must be governed by the Muhammadan law.

“Now, coming to the provisions of the Bill, you will see that the first portion of the Bill, clauses 1 and 2, are nothing but preamble and definitions, etc. Section 3, which is the most important part of the Bill, says this:—

‘3. Subject to the provisions of this Act, it shall be lawful for any person professing the Mussalman faith, not being a minor or of unsound mind, to create a *wakf* for among others the following purposes:—

- (a) for the maintenance and support, wholly or partially, of his family, his children and descendants; and
- (b) where the *wakif* is a Hanafi Mussalman, for his own support and maintenance during his lifetime or for the payment of his debts out of the rents and profits of the property dedicated:

Provided always that the ultimate reversion is, in such cases, expressly or impliedly reserved for the poor, or for some other religious, pious or charitable purpose of a permanent character.’

“Now, that we submit is nothing but a reproduction of Mussalman law.

“Then section 4 is a section by which is intended that there should be a writing, and that writing should be signed and attested by two or more witnesses and registered. That section, which is only a matter of detail and not a matter of principle, is simply to secure the authenticity of a document, and the following sections along with section 4, *viz.*, sections 5 and 6,—all these provisions of registration are intended to prevent fraud upon creditors, because that was one of the points which was emphasized not only by the decisions in the High Courts in India, but by the Privy Council also, that the present state of things opened up a wide door to and facilitated frauds upon the creditors.

“It would depreciate title of property generally and therefore it is just as much in the interest of the owner as the alienee that all safeguards should



be provided for to maintain clear, good and marketable title to immoveable property.

"In this complaint there is great force having regard to the altered circumstances due to progress and advance of civilization. For example, a man makes a *wakf* in favour of his children and their children, and so on, and ultimate reversion is given to charity. Well, the *wakf* may not be registered; it may be a will, it may be a testamentary document. The document may remain in the drawers of the descendants and they may think it necessary to alienate this property by way of mortgage. Well, so far as they are concerned, perhaps it is in their own interest to keep the document in one of the secret drawers. The next generation may come up and object to it and say the previous generation only had a life interest, they were only entitled to the income, and the mortgage was bad. The creditor who happened to advance money then would be in a great fix, and it is in order to prevent that sort of fraud upon creditors that I have thought it necessary that the document should be registered. Then the whole world would know, because registration is notice, and if any person takes that title he takes it at his own risk. Clause 10, which only deals with testamentary *wakfs*, does not in any way alter the Mussalman law. It only says that if you choose to make a *wakf* by a testamentary document or will it should be registered, that is again to prevent fraud upon the creditors. Clause 11 is intended to give power to the persons mentioned therein to get the will registered within a certain period.

"Therefore, Sir, the Council will see that this Bill does not in any way intend to codify or define the law of property or *wakf* generally which must be governed by the Muhammadan law. It does not in any way go against the Mussalman law, but on the contrary the main object, the sole purpose, of the Bill is to reproduce the Mussalman law in conformity with the texts in accordance with the wishes and very strong feeling of the Mussalman community, which feeling is well justified, having regard to the enormous consequences that have followed upon the decision of the Privy Council. Therefore, I ask the Council to give me leave to introduce this Bill. This Bill will be before the country and we shall then be in a position to see if any objection is entertained against it, and I daresay there may be several suggestions that may be made with regard to the details of the Bill. All those, no doubt, will be fully considered at other stages when we reach those stages. Therefore, I ask the Council, and I ask the Government, to support this Bill, and to allow me to introduce this Bill."

The Hon'ble MAHARAJADHIRAJA BAHADUR OF BURDWAN: "Sir, as one who has always taken an impartial view regarding the relations of Hindus and Muhammadans in India, Mr. Jinnah has my fullest sympathy in this *Wakf* Bill, and I have much pleasure in lending my support to its introduction."

The Hon'ble MR. SACHCHIDANANDA SINHA: "Sir, I rise to support the motion of my friend the Hon'ble Mr. Jinnah, and I am glad that I am able to do so. As one belonging to the same profession as the Hon'ble Mover, and also as one who may claim an intimate knowledge of the feelings of the Muhammadan community on the subject-matter of this Bill, I can say that it will be warmly welcomed by Muhammadans all over India, seeking as it does to secure the perpetuation and permanence of an institution for which there is the highest authority in their religion and law, and which, I am firmly persuaded, is a factor of great economic value in the preservation and development of their society. The necessity for the Bill has, as explained by Mr. Jinnah in his lucid and able speech, arisen because of certain decisions of the Privy Council and the Indian High Courts, the practical effect of which is that *wakf-alal-aulad* or family settlement has now become almost impossible. As I have already said, the roots of this institution lie deep in the religion and history of the Muhammadans, and the way in which their law on this subject has been interpreted by British Judges in India and England is (I mean no disrespect to them) an apt illustration of the dangers which beset the path of all Judges who have to interpret the personal law of communities other than their own—laws which are not unoften totally alien to their social instincts and juristic conceptions, being based on totally dis-similar foundations.

"Sir, it is known to every lawyer that the word 'charity' has become a word of art in English law; it has a well-defined and technical significance in the well-known English Statute of Elizabeth, and I submit that it is by no means impossible that the view which has been taken by British Judges of the Muhammadan law of *wakf* has been coloured more or less, perhaps unconsciously, by conceptions which are traceable to that Statute. But, as was observed by that eminent Hindu Judge and Jurist, Sir Subramania Iyer (in a case in which he had to deal with the Hindu conception of Dharma), charity, like water, takes its colouring from the soil through which it flows. The Hon'ble Mr. Jinnah's Bill does no more, as I look upon it, than ask the Judges to bear in mind the character of the soil in judging of the colouring of the water. Now, what is the orthodox Muhammadan law on the subject? I shall give it in the words of a distinguished Indian Judge whose eminence as a Muslim Jurist has been recognised by his recent elevation to the Privy Council. 'Every good purpose', says the Right Hon'ble Mr. Syed Amir Ali in his book on Muhammadan law, 'which God approves, or by which approach is attained to the Deity, is a fitting purpose for a valid and lawful *wakf* or dedication. *A provision for one's self, for one's children, for one's relations*, is as good and pious an act as a dedication for the support of the general body of the poor. The principle is founded on the religion of Islam, and derived from the teachings of the Prophet, and, therefore, any variation of the rule is a direct interference with the Mussalman religion.' These are the words of an eminent Muhammadan Judge. It is true that the exposition of Mr. Amir Ali has not been accepted by British Judges in India or by the Privy Council, and that is just the reason why the Muhammadan community require that the Legislature should come to their rescue and place the law on a more satisfactory footing. In a case reported in I. L. R. 17 Cal. 498 (*Ahsan Ullah Chawdhry's* case) their Lordships say 'they have not been referred to nor can they find any authority showing that, according to Muhammadan law, a gift is good as a *wakf*, unless there is a substantial dedication of the property to charitable uses at some period of time or other.' In a subsequent case (*Abul Fata v. Rasmaya*, 22 Cal. 635) their Lordships say: 'As regards precepts which are held up as the fundamental principles of Muhammadan law, their Lordships are not forgetting how far law and religion are mixed up together in the Muhammadan communities; but they asked during the argument how it comes about that by the general law of Islam, at least as known in India, simple gifts by private persons to remote unborn generations of descendants, successions that is of inalienable life-interest, are forbidden; and whether it is to be taken that the very same dispositions, which are illegal when made by ordinary words of gifts, become legal if only the settler says that they are made as *wakf*, in the name of God, or for the sake of the poor. To these questions no answer was given or attempted, nor can their Lordships see any.' Sir, I desire to speak with all the respect due to their Lordships, but I feel bound to say that this way of arguing the question is hardly satisfactory. It scarcely takes into account the spirit of the institution, and, even assuming that the Muhammadan law is illogical in this respect, it is after all not a very serious reproach to it, for has not a recent Lord Chancellor, the Earl of Halsbury, reminded us in one of his judgments (*Queen v. Leatham*, 1901, A. C.) that law is not always logical and that, because a proposition is logical, it does not follow that it also is legal. Again, their Lordships say in the same case (in 22 Cal.) that it 'would be doing wrong to the great law-giver to suppose that he was commending gifts for which the donor exercised no self-denial, in which he took back with one hand what he appeared to put away with the other, which was to form the centre of attraction for accumulation of income and for the accession of family property, which carefully protect so-called managers from being called to account; which seek to give donors and their family the enjoyment of the property, free from all liability to creditors; and which do not seek the benefit of others beyond the use of empty words.' I submit the abuse of an institution, intrinsically good, is no argument against its continuance. By all means make it impossible that it should be abused, or that it should be used as a weapon for defrauding honest creditors; but why abolish it when the religion and the



law of Islam require that it should live? Sir, as with other maxims, so with legal, it is a good rule to remember that they should not be construed too strictly and literally. We all know that perpetuities are odious to law and that alienability is the general rule governing property. But we also know that certain perpetuities are allowed even in the English law itself and that in England and India alike there are certain classes of property which are inalienable. In dealing, therefore, with the question before us, we should not allow ourselves to be too much influenced by general abstract principles of jurisprudence, but rather see whether a restraint such as is imposed upon property by the law of *wakf* is good or bad, in the interest of those whom it concerns. On this point the Hon'ble Mover has already quoted the high authority of the Russian Professor, de Nauphal. I myself believe that having regard to the economic conditions of Muhammadan society in India, the institution of *wakf*, besides being founded on their religion, is a factor of great economic value. The Government themselves have had in some parts of the country to pass laws permitting the entailing and prohibiting the free transfer of property. They are, therefore, invited to take no extraordinary step in the interest of the Muhammadan community. As I have already shown from a quotation from a judgment of the Privy Council, it is required that the dedication to be good must be a substantial dedication for the poor or for charity. Sir, quite a jungle of case-law has grown up on the dictum of their Lordships, and in each case the question as to what is a substantial dedication, and what is not, presents an element of great uncertainty. As regards the poor, they are always with us, and the Muhammadan law itself makes them the ultimate beneficiaries under every charity, when all other objects fail. But it should be remembered that the Muhammadan law looks upon one's own descendants as also fitting objects of charity. After all, we need not feel so much shocked at this provision, when we remember what a world of wisdom is concentrated in that homely adage, alas! but too often misapplied—that charity begins at home.

"Sir, I believe the Hon'ble Mr. Jinnah in this matter has behind him the entire Muhammadan community; he has his own religion and law on his side, and also the good wishes and sympathy of his Hindu fellow-subjects. It appears to me that neither economic considerations nor public policy will at all be strained by accepting his motion, but that, on the contrary, the acceptance by this Council of this Bill to-day and its enactment in due course will bring satisfaction and contentment to the great Mussalman community and remove from their mind a genuine grievance. For this reason I have great pleasure in cordially supporting the motion before the Council."

The Hon'ble NAWAB ABDUL MAJID: "Sir, I rise to support the motion of the Hon'ble Mr. Jinnah. There is no doubt that the Muhammadan community at the present time feel very much aggrieved on account of the Privy Council ruling that has been pronounced by their Lordships of the Privy Council. The Muhammadan law of *wakf*, be it primarily for a religious or a charitable purpose, or be it primarily for a private purpose, is a law which is considered by the Muhammadan jurists to be a religious law. According to the Muhammadan jurists themselves, even a private trust, though indeed the primary objects may be relations and members of the family, yet the ultimate objects are always considered the poor and other charitable purposes. That being so, the Muhammadan community at the present time feel that, by the pronouncement of the Privy Council, a branch of their religious law has been repealed. Since the establishment of British rule in this country, the observance of the law of endowment has been guaranteed to the Muhammadan community. Now that they find that one of the most important portions of it has thus been repealed, they are alarmed, and they are alarmed, I say, very justly.

"Sir, the only remedy left for the Muhammadans now is that they should come to Government and that they should ask Government to legislate on this question. When a judgment has been pronounced by the highest tribunal, that judgment is sure to be followed by all the subordinate Courts, and legislation is the only remedy which is left to the Muhammadans. Now, my friend the Hon'ble Mr. Jinnah has taken the right action in this matter. As has been said

by the Mover, several attempts have been made by the Muhammadan community to gain their object; but they have failed up to this time. That great and learned Maulvi of Lucknow, I mean Shamshul-Ulama—Maulvi Shibli—has organised a committee and with a view to move the Government has taken signatures of thousands of Muhammadans. He has sent circulars all round to every district and he has obtained their signatures. I do not know whether his memorial is before the Government or not, but, so far as we know, he has got a memorial ready and he was thinking of sending it to the Government. He has given in that memorial all the reasons for persuading the Government to legislate with a view to remove the effect of the Privy Council ruling. We are all very thankful to Shamshul-Ulama—Maulvi Shibli—for all the troubles that he has taken and the efforts that he has made in this direction.

“Now, as to the result of the Privy Council ruling, Sir, it cannot be gainsaid that many old settlements have been destroyed and there are many more waiting to be destroyed. If some early step is not taken, it is possible that many more Muhammadan families will be ruined.

“Now, Sir, as has been said by my friend, the Hon’ble Mr. Sachchidananda Sinha, the whole difficulty has arisen from a misconception of the meaning of the word ‘charity’. Charity, as understood by English jurists, is understood in a different sense, whereas it is understood by the Muhammadan jurists in a different sense. Even in our Holy Koran, wherever it enjoins for charities, the first word used is *qurba*, i.e., one’s relations. If you give alms, the first persons you should give alms to are your relations. And here, I may quote a passage from the well-written pamphlet of Shamshul-Ulama—Maulvi Shibli—on *wakf* on relations: it is this:—

‘In the Holy Koran we find the following:—“It is not righteousness that ye turn your faces in prayer towards the east and the west, but righteousness is of him who believeth in God and the Last Day and the Angels and the Scriptures and the Prophets; who giveth money for God’s sake unto his kindred and unto orphans and the needy and the stranger and those who ask; and for the redemption of captives.”’

“Again, in the Koran we read:

‘They will ask thee what shall we bestow (in alms). Answer, the goods which ye bestow let it be given to parents, kindred and orphans, and the poor and the strangers.’

“In like manner, in Muhammadan works which are in Arabic and unfortunately they are not translated in English, the law of *wakf* is a law which has been highly developed in the Muhammadan jurisprudence. Chapters after chapters are written on this law, and the settlement on kindred and descendants and members of the family is a very important portion of that law. The law of *wakf* is the same thing as trusts in other systems of the law. If *wakf* on descendants and relations is not going to be recognized in British India, it means that Muhammadans are going to be deprived of the observance of a very important branch of their law and which according to their belief is a very important portion of their religious law.

“With these few remarks, I support the motion of the Hon’ble Mr. Jinnah.”

The Hon’ble RAJA OF DIGHA PATIA: “Sir, as the representative of the Hindu and the Muhammadan landlords of Eastern Bengal and Assam, I have much pleasure to support the Bill which has just been introduced by my Hon’ble friend Mr. Jinnah, and I beg to submit that as far as possible the Government ought to do something to save the disintegration of the properties of old Muhammadan families, which, I would say, in that case would be real pillars of the Empire.”

The Hon’ble MAULVI SHAMS-UL-HUDA: “I do not think at this stage it is necessary to enter into a detailed examination of the Hon’ble Mr. Jinnah’s Bill. The main provision of the Bill is to be found in clause 3, and as to that I trust there will be no difference of opinion among the Muhammadan Members of this Council. The decision of the Privy Council to which reference has been



made by my Hon'ble friend took the Muhammadans of India by surprise, and it is the unanimous opinion of all Muhammadans who are conversant with the laws of Islam that the decision of their Lordships has interpreted the law very differently from the interpretation put by Muhammadan jurists. Those decisions have led to considerable litigation about validity of *wakfs*, and a large number of *wakfs* known as *wakf-alal-aulad* have been declared invalid, although if tested by the rules of Muhammadan law alone they were open to no objection. A *wakf* is a religious institution and the Muhammadans of India consider the present state of the law as highly unsatisfactory and as an interference with their religious laws and usages. The discontent is very widespread and very keen and urgently calls for remedy. The correct view of the Muhammadan law on this subject, if I may say so without impertinence, is to be found in the Right Hon'ble Syed Amir Ali's well-known book on Muhammadan law; and before I sit down I wish to quote a passage from Sir Roland Wilson's *Digest of Anglo-Muhammadan Law*, in which, referring to the opinion expressed by Mr. Amir Ali, the learned author says :

'In the great *wakf* controversy I am even more strongly convinced than before that as against the Privy Council he has proved his case up to the hilt so far as the question of law is concerned. The question of public policy is another matter altogether with which the Legislature will one day have to deal.'

"To this I would only add that public policy as understood by modern lawyers has no place in Muhammadan law."

The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR : "It is a matter of regret that a Bill for defining the Muhammadan law of *wakfs* should come up before this Council. The Muhammadan law on the point is very clear and plain, and it was a mistake, if I may say so, on the part of the Privy Council to decide directly against the principle of the Muhammadan law of *wakfs* itself. In the very first place, I should mention that the passing of such a Bill, or the taking up of it by the Imperial Council, for deliberation and discussion ought *not* to be construed into a *precedent* by future legislators for interfering with any point or principle of the Muhammadan law, unless similar circumstances arise, which I hope would never be. We Muhammadans consider our sacred law to be perfect in all points, and deeply resent any attempt by any person or body to interfere with, change or substitute the Muhammadan law, whether of Inheritance, Marriage or Trusts; for we consider our law to be so elastic as to enable us to suitably apply it under any circumstances and for all time to come; and it is therefore with great reluctance that we ask the Legislature to pass a law of this kind simply to protect the rights which we are entitled to enjoy under our own personal law. Apart from all individual opinions or interests on the point, it is noteworthy that the general tenor of the entire Muhammadan population of India, which is indeed no small figure, will be nothing but intensely hostile to any disregard by the Government of its promise of dealing out justice and equity to all classes of people, and allowing absolute religious freedom to them—the Muhammadans to be governed by their own personal law and the Hindus by their own Shastric rules. This important principle, though enunciated long ago, has always been affirmed and reaffirmed by successive British statesmen up to the present day. It is therefore in this our hour of need and alarm, that we appeal to the Government to pass a law to re-establish the Muhammadan law of *wakfs*, especially on those points—and vital points they are—which the Privy Council has questioned, nay, has completely upset it.

"The utterances of the doctors of Muhammadan law on the subject of family endowment or family settlements are very explicit and clear, and leave us in no doubt whatever as to what are the limits within which any settlement can be made, though there are one or two dissentient voices even in the history of Muhammadan law on this subject. For example, the learned jurist Abu Hamifa says that there should be a free circulation of property among the members of the community and that there should not be any property at all tied down for any purpose whether religious or mundane. He thus with one blow strikes at the root of all devolution of property of the nature of trusts

or endowments. But there is an overwhelming majority of learned Muhammadan lawyers of equal fame in favour of trusts which is in conformity with the teachings of the great prophet of Islam.

"I do not wish to be long on this Bill of Mr. Jinnah's as I have not had the opportunity of studying the Bill yet and giving it such consideration as the importance of the subject demands. I therefore reserve my opinion on the merits of the Bill. I shall consider all its details when it is taken up again. From the point of view mentioned above, *i.e.*, from the point of view that the Privy Council has misconstrued the law by delivering a judgment against the root principle of the Muhammadan law of endowments, and that we now seek to remedy this mistake, I welcome a Bill of this nature with all my heart, and earnestly appeal to the Government to afford facilities for the passage of such a Bill, which would be not only conducive to the interests and welfare of an important section of His Majesty's subjects, but would also render the Muhammadan law immune from interference. The feeling that now pervades all Muhammadans that their right of enjoying perfect religious liberty has been infringed would be removed by the Government accepting a proposal calculated to restore the law on the subject."

The Hon'ble MR. SUBBA RAO: "It is not uncommon to find that the Privy Council has sometimes run counter to the law as understood by particular communities in this country. One such instance recently occurred in the province of Madras with regard to impartible estates in that presidency. The Privy Council laid down in regard to a certain impartible estate that the last holder had full powers to alienate it to anybody as he pleased and upheld that particular alienation. The zamindars of that province were naturally alarmed at this decision and approached the Government to legislate that impartible estates could not be alienated according to the whim and pleasure of the holders. The Madras Legislative Council accordingly passed an Act declaring that such estates as were known to be impartible could not be alienated by the holder except under certain conditions. Similarly, so far as the Muhammadan community is concerned, the Privy Council has laid down a law which in the opinion of that community is not correct. It is, therefore, but right that a Bill should be introduced in this Council to lay down the law correctly as understood by Muhammadans. With these few words, I support the motion."

The Hon'ble BABU BHUPENDRANATH BASU: "Sir, my friend the Hon'ble Mr. Jinnah's Bill deals with two aspects of the question. First of all he proposes that *wakf* created by a *wakif* for his own benefit or for the benefit of his descendants should be recognized as valid, and secondly as to the procedure which should be adopted for giving effect to a valid *wakf* if it is held that the *wakif* or the endower is at liberty to make a *wakf* of this description. My friend is met at the outset by a very strong expression of legal opinion against him. We have on our side in Bengal a Full Bench decision—I believe five Judges sat upon it—which held that an endowment, unless it is made absolutely for the benefit of a charity or the poor, would not be valid. A valid endowment for the aggrandisement of one's own family would not be valid. That judgment of the Full Bench was dissented from by one of the members, Mr. Justice Amir Ali. Then there was the appeal to the Privy Council, and their Lordships of the Privy Council went very fully into the question and upheld the decision of the majority of the High Court. But before this decision became known (I am speaking of Bengal only) there were numerous *wakfs* on the old lines recognized by Muhammadan laymen and jurists for the benefit of a man's family with ultimate reversion in case of failure of the family in favour of the poor. This principle unfortunately is opposed to the ordinary acceptance of English lawyers, and naturally a *wakf* or trust for a man himself and his family extending over many generations for an unknown and indefinite period would appeal to the modern sense as untenable. But we have got to deal with a law which was promulgated nearly 1,200 years ago and to consider it. No doubt there is in India naturally great faith in judgments of the Privy Council; but, as my friend the Hon'ble Mr. Subba Rao has said, the Privy Council sometimes lands us in very strange anomalies. Years ago a question arose in the Calcutta High Court as to whether the widow of a childless Hindu, if she became unchaste, was entitled to retain the property which she had inherited. I may



tell the Council (I do not think it need be said) that under the Hindu law, if a man dies without leaving male issue, and under the Mitakshara system if he has no coparcener, his widow succeeds, provided the widow is chaste. This question was raised in a suit in the Calcutta High Court, where it was proved that the widow had become unchaste since the death of the husband; and Hindu lawyers gave it as their opinion, basing their opinion upon texts of Hindu law which to them were very clear, that the widow by reason of her subsequent unchastity had forfeited her right to her husband's estate. Well, this question, as I say, came up, and one of the Hindu lawyers, the late Justice Dwarka Nath Mitter, held that the widow had forfeited her right to her husband's estate; but he was overruled by the other members of the Bench and this question ultimately went up to the Privy Council; and the latter held, following the English principle—which but for the fact that it has become a part of Indian law would not be acceptable to the ordinary lay minds—that property once vested could not be divested, the widow having once inherited could not be disinherited, and that the doctrine of Hindu law that the widow must be chaste to inherit her husband's property would apply only to the period when the husband was alive; that is to say, during the husband's lifetime she would not inherit, but if she did inherit and afterwards became unchaste, she would not forfeit the property that she had inherited; and this curious decision of the Privy Council has landed us in a great many difficulties, the most prominent among which is this that a Hindu widow, if she remarries, forfeits her husband's property, but if she becomes unchaste she continues to enjoy her husband's property. Sir, our Muhammadan friends can also say in this matter that the interpretation of Muhammadan law by the Judicial Committee of the Privy Council has landed them in very serious difficulties. One of the great difficulties is the Muhammadan law of *wakf*. We, neither Hindus nor Muhammadans, have a law of entail amongst us. We have no law by which we can tie up our property even for three generations, and the result is that under the decisions of the Privy Council there is a rapid disintegration of both Hindu and Muhammadan families. I am not dealing with the Hindu question of *debttar* at the present moment; that does not form the subject of the discussion in Council to-day. Therefore, I sympathise very fully with my Muhammadan friends when they seek to bring forward a Bill which would remedy a misconception, if I may venture to say so, of the law as laid down by the Judicial Committee of the Privy Council. But while I give my friends my fullest support on this side, as a practical lawyer I must warn my friend the Hon'ble Mr. Jinnah against the elements of danger that may lurk behind a measure like this—elements which, as Mr. Jinnah has himself pointed out, are fraught with trouble. Very complete and efficient safeguards must be provided under that head, and I am disposed to think that the safeguards which my friend Mr. Jinnah has provided are not sufficient. There is an analogy in the Settled Estates Act of Bengal where the Government has laid down a certain procedure by which creditors are protected in reference to estates which one proposes to settle under that Act; and it will be necessary to consider, when the Bill is fully discussed, as to what should be the safeguards to protect innocent creditors at the time when the *wakf* is made—creditors who may be either secured or unsecured. Subject to such a reservation I support the Bill."

The Hon'ble MR. GOKHALE: "Sir, I am entirely innocent of any knowledge of the Muhammadan law and I am not affected by that law whatever it may be; I do not therefore express any opinion on the merits of the measure before us. But I wish to say a word in support of the motion that my Hon'ble friend Mr. Jinnah should be granted leave to introduce this Bill on the general ground that this matter concerns the Muhammadan community only; that the community should be allowed an opportunity to express its views on the subject; and that the Government should not stand in the way of the community, unless there is anything in the proposal that is repugnant to our notions of right, justice or humanity. As there is no such question, I think the views of the community should be ascertained, and the only way in which that can be done is by giving leave to Mr. Jinnah to introduce his Bill."

The Hon'ble MR. MAZHARUL HAQUE: "Sir, my Hon'ble Hindu colleagues of this Council have laid the whole Muhammadan community of India under an obligation which we cannot and shall never forget. One after another they got up, expressed their sympathy with the Bill, and supported it. I also consider it my duty to repeat the grateful thanks of my community to His Excellency the Viceroy for permitting us to bring this Bill. Sir, the measure is really a difficult and technical one and has to be dealt with by trained lawyers, and therefore I shall not weary this Council by a repetition of the arguments which have already been advanced by my Hon'ble friend Mr. Jinnah, and so ably advanced. But I may be permitted to say that there are two aspects of this question which ought not to be forgotten. What is there in the way of the Government in accepting this Bill? Sir, if the principle of the Bill is really the principle of the Muhammadan law as has been administered in the country for a very long time, and as my friend the Hon'ble Mr. Jinnah has reminded this Council is still being administered in Egypt, Persia, Turkey and certain districts of India, then I humbly submit that the Government should not throw any obstacle in our way. At the same time I confess that the Government would like us, the Muhammadans, to show that we are really unanimously desirous that such a law should be passed. I may assure Government that before this Bill comes for discussion in this Council we shall certainly take great care that the Government should know the fact that the Muhammadans in India are really unanimous on this point. I need not enter into the details of those decisions which have been passed by the Judicial Committee of the Privy Council and the High Courts of India; but this I am bound to say, that the decisions which have been quoted by my Hon'ble friends here are certainly not in accordance with the principles of Muhammadan law. This has been the grievance of the Muhammadans for the last fifteen or sixteen years. I believe it was in 1894 when that decision of the Privy Council was passed, and since then we have been trying, and trying hard, to have that decision upset; but we find that we have been unable to gain our object. The utility of this reformed Council, for which we are so grateful to Lord Minto and Lord Morley, is apparent from the fact that different communities of India can ventilate their real grievances and have them remedied. We are grateful to Government, Sir, for giving us a sympathetic hearing in this Council to-day on this subject, and we are also grateful, I repeat, to the Hon'ble Hindu Members of this Council for giving us their support.

"With these few remarks I beg to support the Hon'ble Mr. Jinnah's motion."

The Hon'ble MR. EARLE: "The attitude which the Government of India will maintain in regard to the Bill will for the present be one of benevolent neutrality. When last this subject was discussed in 1900 on the representation of the Central Muhammadan Association, Bengal, the feeling of the majority of the Muhammadans was against legislation with the object of amending the Muhammadan law as interpreted by the Privy Council, on two grounds: (1) that further effort should be made to induce the Privy Council to modify their decision, and (2) that legislation in respect of their religious law was undesirable. Test cases have, I understand, been brought, with no result, and no more need be said on that subject. As regards the second point, it must be admitted that the Muhammadan world has been moving rapidly of late, and it may be that Muhammadan opinion has changed. The Government of India are willing to allow the Bill to go out to Local Governments to be discussed.

"As regards the form and scope of the Bill, the Government of India must keep a completely open mind, and reserve to themselves the right to oppose the Bill, in whole or part, if that appears expedient at a later stage. I gather that my friend the Hon'ble Mr. Shams-ul-Huda has also proposed a Bill of a more restricted scope. Bengal was, however, outdistanced by Bombay and we have the Hon'ble Mr. Jinnah's Bill before us. It remains to be seen what proposals, if any, will succeed in the end. The Government of India are content to let the Bill go forward on the understanding to which I have referred, and will wait a full expression of Muhammadan opinion on the subject."



The Hon'ble MR. JINNAH : " Sir, I am extremely grateful to my colleagues in this Council, particularly the Hindu Members of this Council, for having accorded their support to this Bill that I have brought before the Council. There is only one remark of caution and somewhat over-caution which was made by the Hon'ble Mr. Basu. Of course, I shall be very pleased if Mr. Basu will at any time point out to me what further safeguards are necessary to prevent fraud against the creditors. He did not mention any in his speech, but if he does mention any hereafter and we think that it would help us, I should personally be very pleased to accept any suggestion of that kind. I am also thankful to the Hon'ble Member who spoke on behalf of Government. All that we desire at the present moment is that the Bill should be put before the country, and I quite agree that it mainly depends upon the opinion and feeling that the country will express on this Bill. I personally feel certain that the Mussalman community is unanimous on this question, and I hope that the Government will also be satisfied to that effect in course of time."

The motion was put and agreed to.

The Hon'ble MR. JINNAH introduced the Bill and moved that the Bill together with the Statement of Objects and Reasons relating thereto, be published in the *Gazette of India* in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

#### EMPLOYMENT IN PUBLIC SERVICE.

The Hon'ble MR. SUBBA RAO : " I beg to move the following resolution :—

'That this Council recommends that a mixed Commission consisting of officials and non-officials be appointed to consider the claims of Indians to higher and more extensive employment in the Public Service connected with the civil administration of the country.'

" I may be permitted, Sir, at the outset to express my thanks to His Excellency the Viceroy for having permitted this resolution to be brought before the Council as early as possible in His Lordship's tenure of office ; and I take it as an earnest of His Excellency's desire to judge for himself whether the administrative machinery of the Government requires any reform, as is asserted in some quarters. I take this opportunity, Sir, to express my thanks to the Secretaries of the several Departments of the Government of India for the readiness with which they have supplied me with information on this subject.

"The resolution before us deals with the question of the higher and more extensive employment of Indians in the public service ; that is, the more extensive employment of Indians in the higher grades of the public service. I realise, Sir, fully the responsibility that in speaking on this subject I do so in the presence of distinguished members of the Indian Civil Service—a service whose members have the proud privilege of making modern India by their high-souled patriotism, their stern sense of discipline and deep devotion to duty, and whose members have responded cheerfully to the changing conditions of their Indian environment. If I criticise the service, Sir, it is not the men that adorn the service, but it is the system that is in force, which I urge requires a change.

"The question before us has from time to time engaged the attention of the Government here and in England for the last three-quarters of a century, and a lot of literature has grown around the subject. It is impossible, therefore, to deal with the subject fully within the time at my disposal, and I shall, therefore, try to give a general outline of the history of the subject and explain how the power conferred by the Statute of 1870 to frame rules has been exercised, and with what result. I shall show that the arrangements in force are against the spirit and the intentions of that Statute. I shall then deal with the present situation and place some suggestions before the Council as to the steps that should be taken to improve the present state of things.

"There are four important landmarks in the history of the Public Service in India. The Statute of 1833, the Queen's Proclamation of 1858, the Statute of 1870, and the appointment of the Public Service Commission, mark the different stages—all directed towards the sole object of associating the people with the real administration of the country. But the steps taken so far have not been successful in securing the end in view and giving satisfaction to the people.

"The year 1833 is memorable in the history of the Government of India. Till then the East India Company was both a commercial and political body. In that year its monopoly in trade was finally abolished and the Company thenceforward exercised only administrative and political powers. In that year was also abolished the monopoly of office by which Indians had been excluded from the principal offices under the Government, and section 17 of the Statute of 1833 was enacted for that purpose. Lord Macaulay described it as 'that wise, that benevolent, that noble clause,' and said, 'I must say that, to the last day of my life, I shall be proud to have been one of those who assisted in the framing of the Bill which contains that clause.' The Marquis of Lansdowne, who introduced it in the House of Lords, said :

'It was a part of the new system which he had to propose to their Lordships that to every office in India every Native of whatsoever caste, sect or religion should by law be equally admissible, and he hoped that Government would seriously endeavour to give the fullest effect to this arrangement, which would be as beneficial to the people themselves as it would be advantageous to the economical reforms which were now in progress in different parts of India.'

"The Court of Directors, in forwarding a copy of the Statute to the Government of India, observed :

'The meaning of the enactment we take to be that there shall be no governing caste in British India ; that whatever other tests of qualification may be adopted, distinctions of race or religion shall not be of the number.'

"They emphasized that not race but 'fitness is henceforth to be the criterion of eligibility' for public offices. Notwithstanding these noble declarations, no effect was given to the clause.

"In 1853 the system of nomination and patronage was abolished and the principal civil appointments were thrown open to competition, but the centre of examination for admission to the Civil Service was fixed in England ; that system has continued up to date.

"In 1858, the Government of the country was taken over by the Crown, when the noble Proclamation of Her Gracious Majesty Queen Victoria was issued, laying down the true principles by which the government of this country could be carried on with safety—a Proclamation which was described by the late King-Emperor as 'the Great Charter of 1858.'

"Shortly after the Secretary of State appointed a Committee of five members of his Council, all distinguished Anglo-Indians, to consider the subject. They reported on the 14th of January 1860 that to do justice to the claims of Indians, simultaneous examinations should be held in England and India, 'as being the fairest and the most in accordance with the principles of a general competition for a common object.'

"But nothing came out of it, and the question continued to be the subject of consideration on the part of responsible authorities.

"After prolonged correspondence, section 6 of the Statute of 1870 was enacted. In moving the second reading of the Bill on the 11th of March 1869, His Grace the Duke of Argyll said :

'With regard, however, to the employment of Natives in the government of their country in the Covenanted Service, formerly of the Company, and now of the Crown, I must say that we have not fulfilled our duty, or the promises and engagements which we have made.....I have always felt that the regulations laid down for the competitive examinations rendered nugatory the declaration of the Act of 1833 ; and so strongly has this been felt of late years by the Government of India that various suggestions have been made to remedy the evil.'

"Speaking of the Statute, Lord Kimberley, in his Despatch of the 8th January 1885, said : 'the Act remains a measure of remarkable breadth and



liberality.' It empowers 'the Government of India and the Secretary of State in Council, acting together, to frame rules under which Natives of India may be admitted to any of the offices hitherto restricted to the Covenanted Civil Service.'

"Again, there was a long correspondence on the subject between the Secretary of State and the Government of India as to the best way in which the Statute could be given effect to and the claims of the Indians for honourable employment in the administration of their country could be satisfied. The Government of India took nearly nine years to frame workable rules under the Statute. Lord Lytton summed up the situation up to that time in these words :—

'I do not hesitate to say that both the Governments of England and of India appear to me, up to the present moment, unable to answer satisfactorily the charge of having taken every means in their power of breaking to the heart the words of promise they had uttered to the ear.'

"At last the Government of India in 1878 discussed the whole question afresh and recommended to the Secretary of State, among other things, to which I need not refer at present, the establishment of a '*close Native Civil Service*,' to which should be transferred a proportion of the posts reserved for the Covenanted Service with a proportion of those held by the Uncovenanted Service.

"The then Secretary of State vetoed these proposals to constitute a close Native Service, and suggested that the annual recruitment in England to the Covenanted Civil Service might be reduced by a certain proportion and that Indians might be annually appointed to such places. He pointed out that one of the advantages of such a scheme was that it would place the Indians on a footing of social equality with the members of the Covenanted Civil Service. He suggested further that the salary of every office might be determined 'at a fixed amount' to which might be added in the case of covenanted English Civilians 'the rate sufficient to make up the present salaries under some neutral denomination.' The Government of India, while expressing its regret that the scheme for a new close Native Civil Service could not be accepted, submitted rules by which they provided that a proportion not exceeding one-fifth of the recruits appointed from England in any one year should be Indians selected in India. These rules were published in 1879. But the system of Statutory Civilians failed to give satisfaction, as no steps were taken to secure the best men in the country, and as more importance was attached in the selection of candidates to birth and social position than to intellectual fitness.

"The whole question was once more re-opened, and in 1886 the Public Service Commission was appointed 'to devise a scheme which may reasonably be hoped to possess the necessary elements of finality and to do full justice to the claims of Natives of India to higher and more extensive employment in the Public Service.' The Commission practically adopted the lines suggested by the Government of India in its Despatch of the 2nd May 1878 above referred to, and made recommendations, which I need not detail here.

"After long correspondence the Government of India fixed in April 1892 the places that should be listed as open to the members of the Provincial Service, and in November they published fresh rules under the Statute of 1870. As stated by the Government of India, 'it (the scheme) was meant to be a final settlement of the claims of the Provincial Service and to be gradually worked up to within a generation of official life.'

"The final outcome of the labours of the Public Service Commission is—

(1) We have, first of all, in spite of the Statutes of 1833 and 1870, the reservation of the higher offices of the State to a particular class of persons recruited in England, mainly Europeans, constituting the Indian Civil Service. The principle on which this Service is constituted is in the words of the Government of India :

'That the Covenanted Civil Service should be reduced to a *corps d'élite* and its numbers limited to what is necessary to fill the chief administrative appointments of the Government

and such a number of smaller appointments as will ensure a complete course of training for junior Civilians.

(2) We have next the creation of an inferior service known as the Provincial Service, filled mainly by Indians—a service characterized by Mr. Dadabhai Naoroji, who has laboured long and incessantly in this cause, as the *Pariah Service*.

(3) Under the rules of 1879, the Statutory Civilians, though on two-thirds pay, held an equal status with the members of the Covenanted Civil Service and had an opportunity to rise to the highest posts in the State; whereas the members of the Provincial Service were assigned a distinctly lower status in the service of the State, and they could not, under the rules, rise to any post higher than that of a District and Sessions Judge or District Collector, and these places are very few, one-sixth of the former and one-tenth of the latter being listed. The recommendations of the Public Service Commission to exclude the following places from the Schedule were not accepted:—

- (1) One member of the Board of Revenue in Madras, Bengal and the United Provinces and a Financial Commissioner in the Punjab.
- (2) One of the chief Revenue-officers of divisions in all provinces, except Bombay and Assam.
- (3) Under-Secretaries to the several Governments in India. (Only one Under-Secretary allowed.)
- (4) One-third of the District and Sessions Judges in all provinces. (Only one-sixth allowed.)

(4) Further, under the rules of 1879, one-fifth of the annual recruitment in England could be made in India by the appointment of Statutory Civilians; whereas we have now a specific number of appointments listed as open to Indians. The number of appointments recommended by the Commission was about 108. It was reduced finally to 93. The figure now stands at 102, including one for Assam and five for Burma which were subsequently listed, of which 92 were held by members of the Provincial Service or Statutory Civilians. Thus we find that after more than 30 years since the recruitment in England was reduced, about ten places excluded from the Schedule are still held by the Indian Civil Service.

(5) Again, if the rules of 1879 had been in force and the Commission had not been constituted, the number of charges available to Indians would have been nearly 165, one-sixth of 993, instead of 102, as it is at present. The number of charges in 1892 when the Provincial Service was constituted was 840 and it is now 993, and yet there has been no increase of places listed in different provinces worth speaking of.

(6) The differentiation into two distinct services has been carried out on the same principles in almost all the special departments of the Public Service—Education, Public Works, Survey, Forest, Telegraph, etc.—one Imperial, mainly European, and the other Provincial, mainly Indian. In some departments, rules have been so framed as to keep back Indian talent from reaching the highest places therein and seriously injure the rights of Indians.

“I shall now take up some particular departments to illustrate the above remarks. Let us take the Education Department which was organised in 1896. There is no chance under the rules for any Indian, unless he is recruited in England, to become the head of a college, much less a Director of Public Instruction, however eminently fitted he might be. I shall not speak of the effects of this differentiation, and I shall allow Mr. Chirol, the author of *Indian Unrest*, to describe them. He wrote:

‘Before the Commission sat, Indians and Europeans used to work side by side in the superior graded service of the Department, and until quite recently they had drawn the same pay. The Commission abolished this equality and comradeship and put the Europeans and the Indians into separate pens. The European pen was named the Indian Educational Service, and the Native pen was named the Provincial Educational Service. Into the Provincial Service were put Indians holding lower posts than any held by Europeans and with no prospect of ever rising to the maximum salaries hitherto within their reach. To pretend



that equality was maintained under the new scheme is idle, and the grievance thus created has caused a bitterness which is not allayed by the fact that the Commission created analogous grievances in other branches of the Public Service.'

"Let us now turn to another department—Public Works.

"Before the department was organised in 1892, Engineers recruited in this country were treated on terms of perfect equality with those recruited in England. The pay and rank of both were the same. They were placed on the same list and had side by side promotion. In 1892, the service was differentiated into the Imperial and the Provincial, and the pay of Provincial Engineers was reduced and fixed at nearly two-thirds of that of the Imperial Engineers; yet their rank was unaffected and their time scale of promotion was the same as for Imperial Engineers. The department was again reorganised in 1908. According to this scheme, the two services were made distinct and separate. There was no longer one list and side by side promotion. Each had its separate list and separate scale of promotion. According to the Imperial scale, the European Engineer became an Executive Engineer after 8 years, whereas the Provincial Engineer had to wait to rise to that grade for 15 years. In the former case his promotion was practically unconditional, whereas in the case of the latter there must be a vacancy in the divisional charges reserved for Provincial Engineers. Again, out of a total cadre of about 953 including Railways, 280 places are allotted to the Provincial Service. The actual strength of the Provincial Service is 170—146 in Public Works and 24 in Railways, as against 727 of the Imperial Engineers—574 in Public Works and 153 in Railways. It may be seen easily from these facts what chance Provincial Engineers have, handicapped as they are as against the Imperial Engineers, to ever reach the higher grades of the service, that is, to the grades of Superintending and Chief Engineers. The result of the new scheme is that a Provincial Engineer of 14 years' standing would be liable to serve under an Imperial Engineer of 9 years' service. Though there was a distinct assurance given by the Resolutions of 19th July 1892 and 23th September 1893, that there would be no distinction between them and the Imperial officers as regards pay, promotion, leave and pension, yet under the new scheme of 1908 it has been ordered that their names should be removed from the list of Imperial men, that they cannot receive the promotion given to the Imperial Engineers, and in fact that they cannot be treated on the same footing as Imperial Engineers who were their compeers till 1908.

"Take again the Survey organised in 1895. Out of a cadre of 48 appointments, nearly one-fifth, *i.e.*, 10 out of 48, is reserved to the Provincial Service, the rest to the Imperial. The nine highest posts of the grade of Superintendents have been excluded from the Provincial Service and the highest post to which the members of that service could aspire is that of Deputy Superintendent.

"It is the same tale in other departments.

"The latest department which was organised, and that under Lord Curzon, is the Customs. This is made wholly Imperial, and the Resolution of 1906 lays down that except for the places reserved for the Indian Civil Service, the rest, *i.e.*, the Assistant Collectors, 'will ordinarily be recruited in England.' Since that time, however, two Indians have been appointed in this department.

"Now, turning to the rules of recruitment in England, we find that for the Public Works Department the regulations lay down 'that every candidate must be a British subject of European descent and at the time of birth his father must have been a British subject, either natural-born or naturalized in the United Kingdom,' and that Natives of India who are British subjects are eligible for appointment and shall be selected to the extent of ten per cent. out of the total number of Assistant Engineers recruited, if duly qualified. That is something, but when we come to the Police, there is not even this *reservation of ten per cent.* for Indians.

"Now, if we come to the Political Department, the recruitment is practically from officers of the Indian Army and of the Indian Civil Service. Though Indians specially selected are declared to be eligible under the rules of 1875, there is only one Indian holding the post of an Attaché in the Secretariat.

"Thus we see in how many directions the door is closed against the employment of Indians in the higher offices of the State.

"Side by side with the policy steadily pursued of excluding Indians in different departments, it is refreshing to find that in the Accounts Departments, under the direct control of the Hon'ble Finance Member, Indians and Europeans are treated equally in all respects, in the matter of rank, pay and promotion. They are placed on one list and have side by side promotion. It is with great relief and satisfaction we listened the other day to a statement of the liberal policy enunciated by the Hon'ble Sir Guy Fleetwood Wilson with regard to these departments. This policy of equal treatment accorded to His Majesty's subjects in these departments has produced its natural results among the officers employed therein. There is more comradeship, mutual respect and contentment among them than among any other class of public servants. The fact that the officers have to serve in different parts of India and not in their own province only has given them a freedom and impartiality which has enhanced their prestige and has added efficiency to the work done by them.

"I shall now proceed to consider the question whether the rules framed under the Statute of 1870 and the arrangements now in force are in accord with the spirit and intentions of the Statute.

"It is plain that the effect of the rules and orders on the subject is to reserve a particular class of appointments to the members of the Indian Civil Service, and that those Indians who do not proceed to England and pass the examinations there are debarred from being appointed to the higher offices reserved for the Civil Service, though otherwise qualified therefor. Consequently, the authorities in India are restrained by the rules and orders for the time being from appointing Natives of India to any such offices unless they have been admitted to the Indian Civil Service, a result which was not contemplated by the Statute. I draw the particular attention of the Council to this aspect of the question.

"Now, the first set of rules framed by the Government of India in 1873 were disallowed on the ground that they prescribed that the main qualification requisite for appointments under the Act should be a certain precedent term of service in the higher ranks of the Subordinate Service, or in the legal profession. When the question was referred to the Law Officers of the Crown by the Secretary of State, they pointed out that the section 'was expressly intended to afford increased facilities for the employment of Natives of India of "proved merit and ability" in the Indian Civil Service. The "proved merit and ability" need only be proved or established to the satisfaction of the authorities making the appointments, and no particular method of establishing proof of merit or ability is enjoined,' and they gave it as their opinion that the restriction on the exercise of the discretion of the authorities limiting the appointments to those who had previously served the Government was 'clearly opposed to the spirit and intention of the Act.'

"I submit that, as the limitation of the exercise of discretion by rules to a *particular class of persons* is against the spirit and intentions of the Act, so the limitation of the exercise of discretion by rules and orders for the time being to a *particular class of appointments* is equally opposed to the spirit and intentions of the Act.

"Assuming that the rules are technically in legal form, there is no doubt that in effect they defeat the very object for which the Statute was passed, *viz.*, that nothing shall restrain the authorities in India from appointing an Indian of proved merit and ability to any office reserved to the Indian Civil Service under the Statute though he may not have been admitted to the Civil Service by passing the examination in England; in fact, the Government have done indirectly what they have expressly been prohibited from doing by the Statute.

"The result is as might be expected from the constitution of the two services. Only about 7 per cent. of the appointments carrying a salary of one thousand rupees and upwards are in the hands of Indians, and almost all the



high appointments of the State involving direction, initiative and supervision have been jealously kept in the hands of Europeans. The constitution of the official element in the several Legislative Councils in the country is a striking example of the effect of these rules. To take the Imperial Legislative Council, the heads of departments and their Secretaries are all Europeans, and the solitary Indian in the official ranks is the Hon'ble the Law Member, Mr. Ali Imam. Sir Thomas Munro said, 'we have a whole nation from which to make our choice of Natives.' Yet there is apparently in the view of the Government such a dearth of native talent in this country that it could not furnish Indians to represent different departments and interests of Government, though in the Native States responsible offices are filled with conspicuous ability by Indians. This is indeed a sad commentary on the labours of the Public Service Commission, which was constituted 'to do full justice to the claims of Natives of India to higher and more extensive employment in the Public Service.'

"It is hardly necessary to say that the Report of the Public Service Commission and the final orders issued on the subject were received by the intelligent public with deep disappointment, and loud have been the protests in the Press and from representative public bodies against the injustice done to the claims of Indians in answer to their demand for responsible association with the Government in the administration of the country. Even some of the Indian members of the Commission, who gave their assent to the scheme on certain conditions, felt deeply aggrieved at the result of their labours. In this connection I shall quote the words of Mr. Salem Ramaswamy Mudaliar, a Madras member of the Commission. He said, 'the net result of what the Secretary of State has done is to place us in a worse position than we occupied when the Public Service Commission was appointed.'

"In 1893 a discussion was raised in Parliament and a resolution was passed by the House of Commons that all open competitive examinations held in England alone for appointments to the Civil Services of India should henceforth be held simultaneously both in India and England. But nothing came of it.

"Not only were the protests from the public unheeded, but Lord Curzon's Government issued a resolution in 1904, with a number of tabular statements, justifying the exclusion of Indians from the higher offices of the State and trying to prove that the indigenous agency was extensively and liberally employed in the service of the State.

"The Hon'ble Mr. Gokhale at the Budget discussion in the Supreme Council in 1905 demonstrated, if any demonstration were necessary, that the position taken up by Lord Curzon was utterly untenable and disastrous to the best interests of England and India. His criticism, I venture to say, remains unanswered up to date.

"The plea that a very large and a gradually increasing number of appointments is held by Indians is an old one put forward under various guises. The real question is, what is the actual share which Indians have in the direction and supervision of the administration of their country? It is no answer to the question that there are thousands of appointments held by them in the lower rungs of the ladder. The large number of tabular statements annexed to the resolution amply disprove the claim advanced by His Lordship that Indians were being treated with 'a liberality unexampled in the history of the world,' and they show that as we rise higher and higher in the official ladder, the Indian element is practically nowhere. I do not think it is necessary to point out how His Lordship's reading of the pre-British period of Indian history is inaccurate, for never before in the long and chequered history of India was Indian talent so largely divorced from the controlling centres of authority. I shall only draw attention to the letter of His Highness the Nizam of Hyderabad, addressed to Lord Minto last year in connection with the steps to be taken for stamping out sedition. He wrote:

'The experience that I have acquired within the last 25 years in ruling my State encourages me to venture upon a few observations which I trust will be accepted in the spirit in which they are offered. I have already said that my subjects are, as a rule, contented,

Peaceful and law-abiding. For this blessing I have to thank my ancestors. They were singularly free from all religious and racial prejudices. Their wisdom and foresight induced them to employ Hindus and Muhammadans, Europeans and Parsis, alike in carrying on the administration, and they reposed entire confidence in their officers, whatever religion, race, sect or creed they belonged to.'

"After stating that his Dewan is a Hindu and that the revenue administration of half of his State is entrusted to two Parsis, he concludes with these words:—'It is in a great measure to this policy that I attribute the contentment and well-being of my dominions.'

"This question, Sir, affects vitally our self-respect and honour, the growth of national individuality, and our national well-being. It is not merely a question of careers for our young men or of rupees, annas and pies, though economy is no doubt an important consideration in carrying on the administration of a poor country like India. It is because our demands in this respect have been ignored, if not treated with contempt, that the discontent in the country deepened. It was loudly asserted in some quarters that there was no hope of national growth under the British flag. Fortunately we had at the helm of the Government two statesmen who had the insight to read correctly the critical situation with which they were confronted. At the Guildhall banquet on the 23rd February last, when the freedom of the City of London was presented to him, Lord Minto, in reviewing the affairs of this country, said:

'Before I had been in India many months, it became evident to me that we should ere long have to deal with a mass of accumulated popular discontent. . . . As far as we could judge the character of the discontent, much of it was justifiable and was directly due to a dawning belief that further opportunities must be afforded for the official representation of Indian public opinion and a greater share be granted to Indians in the government of the country.'

"I may say that it was due to the courageous steps taken by Lord Minto and Lord Morley in introducing reforms in the Legislative Councils and in appointing Indians to Executive Councils that we have tided over the difficulties, and the faith of the people has been revived in the beneficent intentions of the British Raj. The reform of the Legislative Councils of this country has been welcomed more on the ground that these bodies would afford opportunities to the representatives of the people to point out the defects in the machinery of the Government and make it work more in accord with the needs and aspirations of the people. But it cannot be said to be effective unless it is immediately followed up by a reform in the administrative machinery of the Government, which has been out of repair for a good long time. Mere tinkering with it by giving a few more appointments to Indians will be of no good. The reform of the legislative machinery has but touched the fringe of the real question awaiting solution, which hangs on the reform in the agency for carrying on the administration of the country. This is a grievance sorely felt in the country. In fact, it is the root of the evil of discontent. Nearly a quarter of a century has elapsed since the Public Service Commission sat. India has changed considerably since those days. A new generation has grown up with new ideals and aspirations which are more vividly pulsating in the life of the people. The time is opportune to take up this problem of administrative reform and examine it in all its aspects.

"The questions that arise are:—

(1) How to get out of this tangle which has been created by the Public Service Commission and all that has followed?

(2) How to secure real comradeship and mutual respect among the officers of the Public Service?

(3) How to remove the stigma of inferiority that is attached to the Provincial Service?

(4) How to give effect to the beneficent intentions of Parliament as embodied in the Statutes of 1833 and 1870 and to the spirit of the Queen's Proclamation?



(5) How to secure the willing and enthusiastic co-operation of the Indian people in the administration of the country and strengthen the foundations of British Raj in this land?

"I shall now consider the principles and the line of policy that should be adopted in the government of the country that would accomplish these ends. At present I venture to offer some suggestions on the subject.

"(I) The first principle that should be laid down is that no appointments or class of appointments in the Public Service in all its branches, whether general or special, should be made the monopoly of any particular class of His Majesty's subjects in the United Kingdom or India and that all appointments should be open to all classes of people.

"(II) If this is accepted, the rule that the chief administrative appointments of Government should be the monopoly of the Indian Civil Service recruited in England ought to be abolished. At the lowest, such appointments should for the present be shared equally between Europeans and Indians in all departments.

"(III) Competitive examinations now held in England for different branches of the Public Service should be held simultaneously in both countries, and if it is not found possible, examinations of equally high standards should be instituted in this country, so that those who are selected here may command the respect of their compeers selected in England. These examinations should be open to all, and if this is not found possible, limited to nominated candidates.

"(IV) The system of nomination should be abolished, as its effects are demoralising and stunt the growth of national character.

"(V) In the higher grades of the service, the members should not be confined to their own province but should as far as possible serve in other provinces.

"(VI) If the Provincial Service is to be retained in any form, it should be recruited on lines similar to the above service. Where it is considered that a particular class should be represented in the service, if candidates from that class are not available in a particular province, they might be recruited from other provinces.

"(VII) Provision should be made for promotion from one service to the next higher service for officers of tried merit and ability.

"(VIII) Where it is considered that candidates for technical appointments are not available in this country, efforts should be made to send young men to other countries to qualify themselves for such places, and it should be the endeavour of the Government as far as possible to replace foreign agency at an early date.

"(IX) The salary of every office should be 'at a fixed amount' and in the case of a European appointed to it an extra allowance might be given, as suggested by the Secretary of State in his letter of 1878 above referred to.

"The whole question, I need hardly state, hinges on the attitude of England towards India and the relations that should exist between the British and the Indian subjects of His Majesty. This question has been prominently attracting the attention of all those who are interested in the welfare of Great Britain and India—whether the relationship between Europeans and Indians in this country should be one of manly comradeship and co-operation born of equal status and equal privileges, or whether it should be one of timid dependence and sycophancy born of the relationship of superior and inferior. It is a truism that real respect and comradeship can only grow out of 'common service, common emulation, and common rights impartially held.' As we solve this question, the problem before us will be solved. But this depends on the ideal that England sets before herself in the government of this country. The true ideal, however distant and impracticable it might at present appear, should be that India would in the process of time become a self-governing unit of the British Empire, enjoying the same rights and privileges and subject to the same duties and obligations as the other self-governing members of that Empire. If this ideal be steadily kept in view, it would not be difficult to

formulate a policy that should govern the services to the satisfaction of all parties and secure the hearty co-operation of the people in the government of the country.

"The Government calls upon us to co-operate with them in evolving a high sense of citizenship in the difficult task of carrying on the complex administration of this vast country. Is it too much to ask that to secure our co-operation and develop a common citizenship, we should be placed on a footing of equality and manly comradeship with the British subjects of His Majesty the King-Emperor? You may give us magnificent works of irrigation, you may build up a vast system of railways, you may lighten the burden of taxation, you may drive out famine and bring plenty into this ancient land; but so long as manhood is dwarfed and self-respect is wounded, there can be no real contentment and real co-operation with the Government of the country. Lord Lansdowne, in quoting the words of Sir Thomas Munro in connection with the Statute of 1833, said:

'What is in every age and every country the great stimulus to the pursuit of knowledge but the prospect of fame or wealth or power? Or what is even the use of great attainments, if they are not to be devoted to their noblest purpose, the services of the community, by employing those who possess them according to their respective qualifications in the various duties of the public administration of the country? Our books alone will do little or nothing; dry, simple literature will never improve the character of a nation. To produce this effect, it must open the road to wealth and honour and public employment. Without the prospect of such reward, no attainments in science will ever raise the character of a people.'

"We cannot disguise the patent fact that under the present system expert knowledge and ripe experience gained in the administration of the country are drained away and this drain of the intelligence and talent cannot be compensated by any measures which may be devised except some such as I have indicated above.

"The problem, no doubt, is a complex one, involving many conflicting and powerful interests. It, therefore, calls for the best statesmanship and wisdom which the country can command. How the different services should be regulated and modified and how the grievances felt in each department removed is not an easy question to solve. It is, therefore, necessary that a Commission or Committee, where non-official opinion is represented, should be appointed to evolve a scheme which would do justice to the rights of the people of this country, strengthen the foundation of the British rule and give opportunities to India to become, in course of ages it may be, a self-respecting partner in the British Empire, linked with Great Britain in silken bonds of gratitude and love.

"I beg to move, Sir, the resolution which stands in my name."

The Hon'ble Nawab SAIYAD MUHAMMAD SAHIB BAHADUR: "Sir, I have much pleasure in supporting the resolution of my Hon'ble friend Mr. Subba Rao, and in doing so I shall make one or two observations, although I am afraid I cannot do that justice to the subject which Mr. Subba Rao has so impartially dealt out.

"The language of the solemn pledges and declarations made by the Parliament and responsible statesmen during the last 75 years and the terms and spirit of the Queen's Proclamation leave no doubt in the mind of the enquirer that the theory on which we are governed is simply excellent and beyond the pale of all dispute. But in so far the theory remains unrealised in practice, does it and has it produced dissatisfaction among the people of India? In theory it is admitted that no post however high should remain closed to a native of India, simply because he is an Indian. No doubt we all gratefully recognize the fact that some of the highest places have recently been thrown open to qualified Indians; but what about the higher grades of the various branches of the Government service? In some departments we find only few and in others none at all. This is undoubtedly a most deplorable state of things, and I therefore accord my full support to my Hon'ble colleague, especially to that part of his speech in which he has pointed out that where it is considered



that a particular class should be represented in the service, and if candidates from that class are not available in a particular province, they may be recruited from other provinces."

The Hon'ble MR. MUDHOLKAR: "Sir, the subject with which the resolution deals is one of prime importance. It has to be recognized that attempts have been made to deal with it satisfactorily. Those attempts, however, have not been very successful. At any rate they have not given satisfaction to the people. The Government must be prepared to see the subject brought forward over and over again until there is a solution which appeals to the mind of the people and satisfies their expectations. These demands, Sir, are based on grounds of justice, of sound finance, of the economical well-being of the country, and last but not least of the stability of the empire. They are made in the interests not of any one community but of all the communities residing in this country. Sir, when in speaking on this subject I use the term 'Indians' I include therein not only Indians of pure Asiatic descent but also those who are called Statutory Indians, including therein the domiciled community and the Anglo-Indians. The justice of the claim in the abstract has been admitted by Government, but according to our view effect has not been given to it, and sufficient action has not been taken towards the translation of these abstract principles into realities generally and in some departments in an utterly inadequate manner. Sir, we are often told to clear our minds of cant. We have also been told to realize that the demand for admission to the higher posts and positions could not be granted, and that Indians of pure Asiatic descent ought to be satisfied and to be thankful for what they have got and what has been done by Government. We must stand and admire. This position, this attitude, which casts to the wind the great and vital principle laid down by the Statute of 1833 and by the Proclamation of 1858, deserves to be emphatically and authoritatively repudiated in the same manner as that other remarkable doctrine that the principles laid down by the Royal Proclamation of 1858 and the pledges given therein are to be treated as so many diplomatic statements. I do not wish to go into a statement of the general principles which have been laid down by Government from time to time. What I would ask this Council to consider is that though there may be some justification for asking for the establishment of a *corps d'elite* for the Political Department and to some extent in the Revenue and Administrative Department proper, there is absolutely no justification for any distinction, other than of merit, to be made, no reason why any test except proved ability and trustworthiness should guide the determination of selection in other departments such as the Public Works Department, the Forest Department, the Customs Department, the Education Department and similar other Departments. In these departments the position of Indians is in some respects worse than what it was before the Commission of 1886 was appointed. I would ask the Council to consider what Mr. Subba Rao has pointed out in regard to this matter. On the Public Works Department for instance the position was rendered worse first in 1892 and still worse again in 1908. I shall within the few minutes allowed to me specifically deal with one portion of the Public Works Department, and that is the Railway Branch of what is the Public Works Department in a broad sense of the term. The question of the employment of Indians in the State Railways was incidentally referred to last week when we were told that the number of Indians who were actually employed constituted about 97 per cent. of the men in Government service. I shall place before the Council a few facts which will show what is the position of Indians in this Department. In this connection I am only speaking of Indians of pure descent, because from the information available it is impossible to find out whether those who are shown in the list as having European names are Europeans or Anglo-Indians or persons who are domiciled in the country. Now, Sir, taking the State railways managed by the State, we find that there are in the Engineering Department 30 Chief Engineers and Superintending Engineers on salaries ranging from Rs. 1,500 to Rs. 2,750. There is only one Indian officiating in the third class in this branch. There are 50 Executive Engineers

on salaries ranging from Rs. 700 to Rs. 1,250; of these 7 are Indians. There are 50 Assistant Engineers on salaries ranging from Rs. 380 to Rs. 660, of whom only 2 are Indians. There are 38 Royal Engineers (Executive Engineers and Assistants) on salaries ranging from Rs. 550 to Rs. 1,270, none of whom are Indians. There are 24 temporary Engineers on salaries ranging from Rs. 500 to Rs. 1,250, of whom only one is an Indian. That is, out of 190 persons on salaries ranging from Rs. 500 to Rs. 2,750, there are only 11 Indians. Let us take another department of the railways, the directing one, *viz.*, the Managers and Sub-Managers. There are eight posts with salaries ranging from Rs. 1,300 to Rs. 3,000, and there is no Indian amongst them. Then the Traffic Department—the Superintendents and Deputy Superintendents and District Superintendents, whose number is 50, on salaries ranging from Rs. 600 to Rs. 2,000, of whom there is only one Indian on Rs. 700. There are 62 Assistant Superintendships on salaries ranging from Rs. 250 to Rs. 500, of which only 7 are held by Indians. In the Locomotive Department, in which there are about 100 appointments on salaries ranging from Rs. 250 to Rs. 2,000, there is only one Indian who is an Assistant Superintendent, and he too is an Honorary Assistant Superintendent. In the Carriage Department there are 15 places on salaries ranging from Rs. 350 to Rs. 1,600, and there is not one Indian employed. In the Stores Department there is only one out of nine. In the Bridge and Signalling Departments there are 12 superior posts carrying pays up to Rs. 1,050, none of which are held by Indians. The tale does not stop there. If we go to the Subordinate Revenue-establishment even there we find that among the subordinate engineering staff consisting of 42 persons on salaries ranging from Rs. 250 to Rs. 500 only 4 or 5 are Indians. In the Signalling Department there is no Indian. In the Traffic Subordinate Branch, including traffic inspectors and station-masters, out of 72 persons on salaries ranging from Rs. 250 to Rs. 500, there are only 4 Indians. In the Locomotive Department, out of 131 upper subordinates, only one is an Indian. Now, Sir, what I would ask the Council to consider, what I would ask the Government to consider, is this: if Indians can manage (I do not look into the past but confine my attention to the present) not only States, but in British India can be entrusted with the management of districts, if they can hold the position of District Judges and Sessions Judges, if they can be Executive Engineers and Superintending Engineers, how is it that in the railways they are practically excluded from all the higher appointments? The question was raised in another aspect, at the Allahabad Educational Conference, and there two conflicting reasons for this absence of Indians were advanced. One reason was that there were effective courses of instruction provided at Rurki and elsewhere, but Indians did not care to take advantage of them. Another which was put forward was that the persons who were trained in this country in the colleges established by Government are not sufficiently qualified to be entrusted with railway engineering work. This was said with reference to the Civil Engineering portion of the Railway Engineering Department. Well, I do not wish to say anything further, because in regard to this matter certain recommendations have been made which if given effect to are calculated to remove the grievance. There is some kind of explanation coming forward in regard to the Engineering Branch of the State Railway Services. But in the Traffic Department and in the other Departments there can, Sir, be no excuse whatsoever. It cannot be said that Indians cannot manage our bigger stations; it cannot be said that they cannot be Traffic Inspectors and Traffic Superintendents. Their exclusion is one which I hope the Railway Board will seriously take into consideration, and do their utmost to remove. How entirely excluded they are, the figures which I have placed before the Council demonstrate very clearly. But if in the railways managed by the State there is this very inadequate employment of Indians, when we go to the State lines which are managed by companies the case is worse. It might be said that those are private companies and the Government have no right to control their action. That, Sir, is a principle which must be vigorously repudiated; for this reason, that they are companies to whom special privileges have been granted over the State railways, and they ought to be made to conform to principles the justice and propriety of which have been over and over again admitted by Government. Now,



I shall take the case of a few of the more important railways. In the Great Indian Peninsula Railway there are 7 appointments on pays ranging from Rs. 387½ to Rs. 3,500 in the Agent's office, in which there is no Indian. In the Audit and Accounts Department there are 15 appointments on pays ranging from Rs. 292 to Rs. 2,000, and there is no Indian. Whether Indians are fit in the Accounts and Audit Department or not is shown by the fact that posts of Accountants General and Deputy Accountants General are held, and held with credit, by Indians. In the Engineering Department there are 73 appointments carrying salaries ranging from Rs. 400 to Rs. 2,000, and there is only one Indian on Rs. 480, and he too is only an Assistant Engineer. In the Traffic Department there are 28 appointments on pays ranging from Rs. 250 to Rs. 2,638, and none of them are held by Indians. In the Locomotive Department there are 20 appointments on salaries ranging from Rs. 600 to Rs. 2,200, none of which are held by Indians. In the Carriage and Wagon Department there are 5 appointments on salaries ranging from Rs. 500 to Rs. 1,700, none of which are held by Indians. In the Stores Department there are 6 appointments on salaries ranging from Rs. 300 to Rs. 1,275, none of which are held by Indians. In the Medical Department there are 8 places on salaries ranging from Rs. 400 to Rs. 1,200, none of which are held by Indians. Indians are not even fit for employment as railway doctors! I shall take one more instance—that of the East Indian Railway. There are 7 appointments on Rs. 400 to Rs. 3,500 in the Agent's Office, and there is only one appointment on Rs. 500 held by an Indian, and he is a Vakil. In the Audit and Accounts Department there are 12 appointments on pays ranging from Rs. 400 to Rs. 2,500, but one only is held by an Indian on Rs. 600, namely, the Treasurer. In the Medical Department there are 10 appointments on salaries ranging from Rs. 480 to Rs. 1,500, none of which are held by Indians. In the Stores Department there are 5 appointments on salaries ranging from Rs. 400 to Rs. 1,500, none of which are held by Indians. Even in the Printing Department no Indian is employed in any of the upper posts. In the Engineering Department there are 49 appointments with salaries from Rs. 350 to Rs. 2,750, none of which are held by Indians. In the Electrical Department there is no appointment held by Indians. In the Traffic Department there are 41 appointments on Rs. 500 to Rs. 2,500 and 21 appointments on Rs. 250 to Rs. 500, only one of which was held—it is no longer held now—by an Indian. That Indian resigned some time ago and his place was given to a European. In the Colliery Department the same is the case. I shall not go on piling more facts. In the Bombay, Baroda and Central India Railway, in the Bengal-Nagpur Railway and in the Madras Railway things are very much the same. In the Bengal-Nagpur Railway there is a very very slight difference, but after all it is only three or four places more than what exist elsewhere.

“Here Sir, are State railways which are owned by the State, or railways which are subsidised by the State, and it is, I think, Sir, the duty of the Government to see that those railways do give fair play to Indian talent and to Indian ability. Sir, it is as much in the interests of England as of India that due scope should be accorded to Indian ability. If Indians have to feel that they are members of the Empire, then they must be able to feel that they can rise to the height of their stature in this empire. There ought to be no studied exclusion, as there seems to be in certain departments, of Indian talent and Indian ability. I shall close, Sir, with making the appeal to the Council and to the Government.”

The Hon'ble MR. MADGE: “Sir, this is one of the most difficult and delicate questions that this Council has been called on to consider since its formation. I cannot pretend to come to it with a wholly unbiassed mind, but I will try, according to my lights, to look at both sides of the question as far as I can. There is first the Government side as it appears to a non-official. It has been said over and over again that the British Government of this country is the best that the country has ever known. That statement has not been made only by Englishmen; it has been made by French and Russian travellers through this country, and it is entitled to a certain amount of consideration from everybody

who loves this country. For, Sir, if the Government of this country is a sound one, its soundness cannot have been evolved from theories; it has been evolved from men who have done its work; and I think it is only due to the character of Englishmen as a whole to say that the soundness of this Government is mainly attributable to the character of the men who have carried it on in the past. No doubt, instances may be given of gross injustice; every one of us can give instances in which strange injustice has been done to particular individuals owing to defect of judgment or want of character in particular persons. I do not know that my own community has not suffered more than Indians in this respect. But, Sir, I think I may fairly claim that these instances are occasional; they are accidental; they have not been nearly so numerous as to make any stain upon the character of the administration as a whole. The administration has stood in the eyes of competent critics as one of the wonders of the modern world, and I think our Indian friends should pay some little attention to that fact in any remarks that they may have to offer. Now, Sir, if a British tone is needed in the administration, I would say that the British tone is not like the grin of the Cheshire cat in *Alice in Wonderland* which remained on the tree after the cat had disappeared. It is necessary to maintain Englishmen in a certain preponderating strength in this country in order to perpetuate that tone. Remarks have been made about the future of the Government of this country by Members and by Indians outside, and I think that the glamour of that sort of thing ought not to be thrown over a discussion like this one, which is intended to be thoroughly practical. We should consider the present conditions as they actually are. What proportion of Englishmen should be retained in the administration of the country? That is the real question that has to be solved. Whether a responsible and disinterested Government are the best judges of that proportion or irresponsible and interested critics is a delicate question in its way. I do not for a moment claim for the Government infallibility in this or in any other matter; but I do say that, because the Government of the country has on the whole been impartial and just and good, some credit must be allowed to it in its decisions as regards the proportion of Europeans that ought to be maintained in the administration. I do not think that a number of Englishmen of character and education would deliberately do wrong in this matter out of social or racial prejudice. That social and racial prejudice does exist in this country I unhappily am too well aware, and I do not mean to minimise that evil in the administration at all; but speaking generally, Sir, I feel that the character of the administration is such that we must give the Government credit for trying to introduce as much of an Indian element as possible. This particular time, when we have had Indians introduced into the very highest ranks of the administration, is a period when we should all admit that we owe something to the Government for what it has done. It has been said that in particular departments of the State more Indians ought to be introduced into the administrative ranks. I myself firmly believe that science knows no climate, and where scientific attainments are shown by Indians, they ought undoubtedly to be advanced to higher posts; but, Sir, the element of administration also enters into, and is so closely allied with, scientific and professional operations, that sometimes it is very hard to distinguish what to do in particular cases; and one advantage of a Commission such as has been suggested, and which I would warmly support, is that if a really honest and earnest enquiry is made into the matter, it will be found out exactly what can be done. I have seen it stated in the newspapers that Lord Northbrook left upon record a memorandum of some kind or another in which he said that owing to the fatalistic tendencies of some of our Indian friends (I am not responsible for this report and I do not know whether any such memorandum was ever left or not, but I have seen it stated as a fact), they have not that sense of responsibility for life developed in them that most Englishmen have. How far this may be true is a matter on which the Railway Board might give us useful information when they report on the results of those enquiries that have been made into railway accidents. It must be a very difficult thing to decide what test should be employed to find out what is wanted; what is needed is not literary attainments or quotations by



the yard from literary books, but solid character. It is really one of the most difficult problems to decide what tests to apply.

"I must say that I am one of those who think that simultaneous examinations in this country would be a snare and delusion which would lead to a number of literates being brought forward as candidates who would possess none of the requisite qualifications. I said, Sir, on a former occasion that as regards Englishmen the competitive examination was introduced in 1853-54, for the reason that it was supposed to be the best means of finding out a certain standard of education for a class of young men who were supposed to possess the character of their race in other respects. Unless we can find out a test which will test character as well as literary attainment, there arises a great difficulty, and I hope that our Indian friends will lay themselves to the difficult task of finding out by what means character is to be discovered. No man in his senses, who has read the career of Sir Madhavo Rao, or any other Indian gentleman of that kind, would stand up here, or anywhere else, and say that the highest character and highest administrative talent are not to be found in this country. The means by which such men have been found and been brought out is one that ought to be enquired into and carefully examined. What we do want, Sir, is individual character, and I do hope that if the Government can find out means for testing character that it will be just to our Indian fellow-countrymen as well as to the domiciled community.

"As regards the public services, instances have been brought to my notice in which very serious injustice has been done in the Survey Department, in the Public Works Department and in the Telegraph Department. I for my part am willing to believe that this injustice has been done unwillingly; but there it stands, and you convert men who might be very efficient officers into discontented men for the rest of their lives, for no fault of their own, but because means have not been discovered by which true worth is to be rewarded. I do not mean to descend into personalities; I could give a few instances, which would shock everybody here, of gross injustice; but Sir, as I have said, I think and I believe that these are exceptions. I agree with the remarks that have been made about the brand of inferiority that has been put upon local talent by the Public Service Commission. It was a fatal mistake to close the door to real talent in any department of the State. When Mr. Samuel Laing succeeded the first Finance Minister, Sir James Wilson, he opened the Financial Department to indigenous talent, and this Department brought to the front men like Sir George Kellner, who would under the old and the revised system have been branded as inferior and stamped down into obscurity. That gentleman not only rose to the highest eminence in this country, but on retirement was got hold of by the British Government and sent to Cyprus as their Financial Minister. His brother Edwin also rendered good service in the Financial Department. Mr. Robert Hollingbery came forward and wrote books on the gold question and on the permanent settlement that have become text-books to everyone who has written on the subjects since; and I am quite sure that there are amongst our Indian fellow-subjects and ourselves men of the same stamp. The difficulty lies, Sir, in finding out certain branches of the administration in which you can trace peculiar kinds of talent. I see the difficulty and I admit it, and I feel incompetent to suggest any method by which that strange mixture of administrative talent with professional ability is to be, as it has before been, found; but I am quite sure that it is to be found. I have come across men of wonderful ability; men who would be a credit to any Government in any department of the State; and it is a great pity that men of that kind should be stamped down by any artificial rule."

The Hon'ble **LIEUTENANT MALIK UMAR HAYAT KHAN**: "Sir, though this resolution may look very pleasing to certain people, who may hope that it will open to them a larger number of posts, yet a close examination will disclose the fact that such is not the case. The first objection is that the expenditure incurred on such a Commission will serve no useful purpose. Sitting here one can scan the lists of gazetted officers and ascertain from them the number and class of appointments held by Indians and Europeans. There are, I think,

in each of the rural districts not more than one, to three, English officers who are at the head of departments and who mostly do the work of supervision, while the rest of the work is carried on by our own people. I think that from the administrative point of view this supervision by European officers is much needed at the present stage. There would be many objections under any other arrangement.

"A district, for instance, consists of various classes of people of different creeds and religions who require some disinterested man to safeguard the interests of all, for a man belonging to one class will naturally have a prejudice for people of that class. Even if the head of the district was not biassed, many of his subordinates will think him so, and, as such people look at things from their own point of view, a feeling of distrust in his administration would almost certainly be aroused.

"Again, an Indian will sometimes find himself in an uncomfortable position when strong and prompt action against a class is required to be taken, for unless he has very great force of character he may hesitate to act at once, fearing that his motives may be misconstrued or misrepresented. Such a feeling would tend to make his administration weak, and experience has shown that on several occasions failure has resulted from it.

"An Indian officer will not always be looked upon even by his own people as an European officer, and the consequence of this would be that his authority, especially in criminal administration, would fail to command the same weight. That I mean to say only about rural districts and its present state.

"Indians now hold appointments under the Crown of all degrees, from the lowest to the highest. Every man who holds an appointment, of whatever nationality he may be, is bound to show his capacity or want of it, and there is no reason to believe that when he has proved his fitness his claims to higher appointment will not be considered.

"There seems little value in holding an inquiry into the more extensive employment of Indians in the Public Service, for it has been the constant policy of the British Government to employ them as extensively as possible, and it is difficult to see what benefit is likely to result from such an inquiry. In my opinion, too, an inquiry into the claims of Indians to higher employment is unnecessary, nor will the result of such inquiry be likely to help the object with which the resolution has been brought forward.

"Many able and overzealous people, possessing high ideals, move at such a fast pace that they get out of touch with the feelings of the rural masses, whose pace is much slower and who form the largest, quietest and most loyal portion of His Majesty's subjects. Their interests require to be protected, and I am voicing the feelings of a vast majority of them when I say that any big scheme entailing a departure from the present system is unnecessary at present, although I quite agree that fit men should be gradually given chances of reaching higher offices.

"With these few remarks, Sir, I beg to differ from my Hon'ble friend as regards the propriety of having a Joint Commission at present, but agree with him otherwise."

The Hon'ble MR. GOKHALE: "Sir, before I say a few words on the resolution which my Hon'ble friend has brought forward, I would like to offer him my congratulations on the industry and care with which he has prepared his case and the ability with which he has presented it to the Council. Sir, this question is undoubtedly one of great importance, and, like all questions of great importance, it is beset with great difficulties. I am anxious to approach it with as much fairness as I am capable of, because there are undoubtedly two sides, and while I am keen that the aspirations of my countrymen should receive fair and reasonable recognition from the Government, I should be very unwilling not to recognise at the same time the difficulties that lie in the path of the Government in dealing with this subject.

"Sir, one of the fundamental conditions of the peculiar position of the British Government in this country is that it should be a continuously progressive



Government. I think all thinking men, to whatever community they belong, will accept that. Now, I suggest four tests to judge whether the Government is progressive, and further whether it is continuously progressive. The first test that I would apply is what measures it adopts for the moral and material improvement of the mass of the people, and under these measures I do not include those appliances of modern Governments, which the British Government has evolved in this country, because they were appliances necessary for its very existence, though they have benefited the people, such as the construction of Railways, the introduction of Post and Telegraphs, and things of that kind. By measures for the moral and material improvement of the people, I mean what the Government does for education, what the Government does for sanitation, what the Government does for agricultural development, what the Government does for industrial development, and so forth. That is my first test. The second test that I would apply is what steps the Government takes to give us a larger and larger share in the administration of our local affairs—in municipalities and local boards. My third test is what voice the Government gives us in its Councils—in these deliberative assemblies, where policies are considered; and lastly, we must consider how far Indians are admitted into the ranks of the public service.

“Now, Sir, as regards the first test, I believe that is what one feels to be in the air—I believe that we are on the eve of important measures being taken by the Government, and in those measures both the officials and non-officials can and should heartily co-operate with one another. As regards the second, I trust that, as a result of the Decentralization Commission's labours, a further advance will soon be made. A fair beginning has already been made, and when we have a further advance in the same direction, we might be expected to remain satisfied with that for some time. As regards deliberative assemblies,—the Provincial and Imperial Councils,—the reforms that have recently been introduced constitute an important advance, and for some time, therefore, that question may rest there. When, however, we come to the last question, we strongly feel that the time has come when something must be done to improve matters, and I hope something will soon be done. Sir, I have already observed that the Government has to be a continuously progressive Government, and that it cannot afford to rest on whatever it has done in the past in any one of these directions. Now, taking this question of the employment of Indians in the higher ranks of the public service, which I admit is a very difficult question, I would like to refer briefly to what my Hon'ble friend Mr. Subba Rao has already pointed out, namely, that there are four or five distinct landmarks in regard to this matter in the history of British rule. In 1833, when Parliament laid down that there should be no distinction of race in making appointments to the public service in this country, the British nation gave a noble pledge to the people of this country of its own accord. There was no agitation here at that time—in fact, there was hardly any Western education. It was a great pledge to give, and it was given by the British nation spontaneously. The next landmark is 1854, when the competitive examination was thrown open to Indians along with Europeans. The old Haileybury system was abolished and competition was introduced, and it was thrown open to all. The Queen's Proclamation of 1858 constitutes the next landmark. Even then there was no agitation for a wide employment of Indians in the public service for the simple reason that the Universities had not then been established, and there was no large educated class. In 1861, when the Secretary of State appointed his Committee, to which my Hon'ble friend has referred, it was again more the conscience of the English people than any demand made from this side that led to the appointment of that Committee. When the Act of 1870 was passed—that is the next landmark—there was some public opinion here, and a few Indians—notably Mr. Dadabhoy Naraojee—had been agitating in England for the admission of Indians to high office; but even then, the main part of the work was done by Englishmen, by English friends of our aspirations, who felt that the arrangements existing at that time were not quite just to the people of India. When, however, the Public Service Commission was appointed in 1886—that is the next landmark—the position was much altered. By that time

a large educated class had come into existence, and that class keenly felt its own exclusion from the higher ranks of the Public Service. The Commission was appointed with the declared object of devising means for the larger admission of Indians in these ranks, and as the results of the Commission's labours have, on the whole, been disappointing, there is no doubt that that constitutes a legitimate ground of complaint for the people of this country.

"Sir, it is interesting to note at what intervals these successive steps in advance were taken. From 1833 to 1854 or 1858, whichever you take, there was an interval of 20 or 25 years. From 1858 to 1870, when the next step was taken, there was an interval of 12 years. In 1886, when the question was again examined, it was after an interval of about 16 years. Since then, however, there has been no inquiry,—that means during a period of 25 years,—and that is one reason why I urge that the resolution of my Hon'ble friend should be adopted. It is true that during the last three or four years some very striking appointments to high office have been made. My friend, Mr. Ali Imam, sits on that bench there; two Indians sit in the Secretary of State for India's Council; an Indian recently held the position of Advocate General at Calcutta, and Indians have even been appointed to act as Chief Justices of different High Courts. These striking appointments have no doubt impressed the imagination of the people, and there can be no question that they are deeply appreciated by my countrymen. But our grievance is in regard to the bulk of appointments in the higher ranks; and that grievance is not really touched by these appointments. And so far as that grievance is concerned, the labours of the Public Service Commission resulted in little substantial improvement for us in practice. And indeed in some departments, the position has been rendered actually worse. My Hon'ble friend, Mr. Subba Rao, has pointed out how in regard to the central Civil Service, the recommendations of the Public Service Commission and the orders passed by the Secretary of State on those recommendations have actually put us back, compared with the statutory service rules of 1879. The rules of 1879 gave us  $\frac{1}{4}$ th of the total recruitment of Civilians for this country. Now, taking the cadre at about a thousand posts—it may be a few more or a few less—we should have had about 160 Indians, under those rules, in the central Civil Service. The Commission, however, recommended only 108 posts for us in place of 160, and the Secretary of State cut the number down to 93; and that is the number we have at present. I believe even the whole of these 93 are not yet held by Indians. I think we are about 10 short of what the Secretary of State promised at that time leaving out of account the additions made subsequently for Burma and Assam. Now, Sir, the Secretary of State's orders were passed in about 1890 or 1891, and twenty years have elapsed since then. If for nothing else, at least for the fact that it is now 25 years since the appointment of the Public Service Commission, and 20 years since the Secretary of State passed his orders on the recommendations of that Commission, I urge that there should be a fresh enquiry into the whole matter. But Sir, I say something more. I say that as a result of the labours of the Public Service Commission, the position of Indians in many branches of the public service has actually been rendered worse, and that should now be set right. In the first place, Sir, the Public Service Commission recommended that there should be a division of the public service into Imperial and Provincial. Now that was a most unfortunate recommendation. I am quite sure that the President of the Commission,—the Lieutenant-Governor of the Punjab of that time,—a man of broad sympathies, undoubtedly did not want to put the Indians back; but the result actually has been to put us back, and this for two reasons. First, there is a stamp of inferiority on the Provincial men, and they are bound to feel that. Secondly, if you have these artificial divisions of Imperial and Provincial, the abler men in the Provincial Service—I mean those who are abler even than some of the men in the Imperial Service—cannot help feeling that the arrangement is most unjust to them. I am, therefore, strongly of opinion that this division between Imperial and Provincial must go. I hope it will go soon, and unless it does we shall have to bring up this matter again and again before this Council. Then, in two departments particularly, this division between Imperial and Provincial has done greater harm to us than in other departments—I mean the Education and the



Public Works Departments. In some of the other departments, the creation of a Provincial Service has to a certain extent improved the prospects of Indians, so far as mere numbers are concerned, because there were hardly any Indians employed in those departments before and the constitution of the Provincial Service has given them some chance there. But in the Education and Public Works Departments, we have suffered a great set back. In the Education Department, for instance, Indians were on terms of equality with their English colleagues before the creation of a Provincial Service. The scale of salary was, no doubt, two-thirds, but in other respects they were on equal terms. But they have now been put into a distinctly subordinate position and we see on every side the most flagrant cases, which hurt every body. Thus we find men of most distinguished attainments in the Provincial Service simply because they are Indians, and men who passed their examinations only yesterday, and who have so far earned no distinction by their work, in the Imperial Service, simply because they are Europeans. I will give only one instance. There is a gentleman here in Calcutta, named Dr. P. C. Roy, a most distinguished man of science, a man who has been honoured by French and German *savants*, a man adored by his pupils, a man who has been doing original work for the last 20 years and more. But he is still in the Provincial Service, whereas young men, fresh from College, without any original work to their credit, men who are admittedly his inferiors, are brought out to this country and put over his head, simply because he happens to be in the Provincial Service and they are brought out as members of the Imperial Service. Now, Sir, this sort of thing hurts not merely the men who are actually affected by it, it hurts the students studying under them. In other departments any injustice done to an Indian official concerns that official only. In the Education Department it affects the students as well; the bitterness passes from the professors to the students, and the whole student community comes to be affected by it.

“Take again the Public Works Department. At one time Indian and European Engineers were all on terms of absolute equality not only as regards status but even as regards pay. In 1892, differential rates of pay were introduced for the first time—two-thirds pay for Indian Engineers. Now, under the new re-organization scheme, the status of the Provincial Engineers is reduced still further, for they are now to be put on a separate list. Thus, in this Department we were at first on terms of absolute equality with Englishmen. Then our pay was reduced to two-thirds, though in regard to other matters equality was maintained. Finally, it is now decided to do away with this equality by putting us on a separate list altogether. And not only is this applied to new men but a most unjust and unjustifiable attempt has been made to apply it to old men, recruited since 1892. There are about 100 men who are the victims of this gross injustice. There is the definite word of the Government pledged to them in 1892 that they would be on the same list as the Imperial Engineers, and yet it is proposed now to put them on a separate list—a distinct breach of faith. These men have not yet accepted the arrangement, three years have passed, and they have so far got no redress. The Secretary of State is still waiting for the despatch of the Government of India which should have gone long ago. I asked a question the other day on the subject, and the Hon’ble Mr. Carlyle gave an answer, in which I see an element of hope. I, therefore, will not press this question further to-day, but, if necessary, I will bring a resolution on this subject at Simla.

“I urge then, first of all, that this distinction between Imperial and Provincial must go. The second respect in which we have lost ground since the last Public Service Commission is in regard to competition. Gradually competition has been abolished more or less throughout the country and we are now made to depend almost exclusively upon Government nomination, pure and simple. Now, I am quite alive to the defects of competition as a method of filling Government offices. Of course it is not ideally the best method, but I contend that it is the best method available. In a country like this, governed by Englishmen, who are unfamiliar with our ways, and cannot instinctively understand the difference between one individual and another, they are at times apt to be misled by appearances, by recommendations and

by a lot of other considerations owing to the very peculiarity of their position. And I submit that competition, with all its defects, is any day better than nomination, pure and simple. An Englishman, judging of English candidates, may dispense with competition, because there is a great deal of initial knowledge that may be taken for granted on account of their belonging to the same society. Here the individuals belong to different societies and that initial knowledge is lacking, and nomination, I contend, is bound to lead to abuses—haphazard selection and favouritism. My second point, therefore, is that competition must again be restored, for making selections for Government service.

“ I will now say a word about one or two other Departments. I have said that in the Public Works and Education Departments, our position has grown worse. In the Medical Department, while it has not grown worse, it is still most unsatisfactory. The professorships are all the monopoly of the Indian Medical Service Officers and the hospitals are closed to all non-service men. Recently they have thrown open the Professorship of Anatomy in the Calcutta College to non-service men, but the moment it is thus thrown open to non-service men, it is rendered altogether unattractive. There used to be a pension attached to this post till now, and private practice was hitherto allowed; but it is now declared that there is to be no pension, there is to be no private practice, and the new man will get no house allowance, when every one else is getting it. Thus the moment the post is thrown open to non-service men it is made altogether unattractive for our best men, and I would like to have an explanation as to why this has been done. Take again the question of the Chemical Analysts in Bombay and Karachi. Some years ago, the Secretary of State decided that these appointments should not be the monopoly of the Indian Medical Service. And there is a distinguished man in Bombay available for these appointments to-day, doing for years the work of Assistant Chemical Examiner. The Indian Medical Service men, appointed as Chemical Analysts, receive their training under him, and then they are put over his head. I understand the Government of Bombay is anxious to help this gentleman; but the matter rests with the Government of India, and somehow his ability and record of services receive no recognition from them.

“ Lastly, I come to the Department of Railways. I am not going into the question in detail to-day, because my friend the Hon'ble Mr. Mudholkar has already dealt with it exhaustively. Here we are almost entirely excluded from all higher appointments, and I hold that this is absolutely indefensible. It cannot seriously be contended that Indians are not fit for any place in the Railway Administration above Rs. 200 a month, when you can put them on the Government bench there, make them Chief Justices of High Courts or entrust them with the management of districts and divisions. To those who speak of such unfitness, I would like to mention an interesting episode. It refers not to the Railway Department, but to another Department,—the Survey Department,—but the principle is more or less the same. Not many years ago, there was a controversy about the position of Indians in the Survey Department, and it was contended very vigorously by the champions of European monopoly that Indians were not fit for the work, and that therefore they should be kept out. Unfortunately a report, submitted by Colonel De Prée, who was then the head of the Survey Department and who was a strong advocate of Indian exclusion, came to be published, and this was what he was found to say in that report:

‘ I may here remark incidentally that my numerous late inspections show me that the tendency of the European surveyors is to stand and look on, while the Natives are made to do the drawing and hand-printing, as if they thought themselves quite above that sort of thing. This is a mistake and cannot be permitted for the future. Besides, it is suicidal for the Europeans to admit that Natives can do any one thing better than themselves. They should claim to be superior in *everything*, and only allow Natives to take a secondary or subordinate part. In my old parties, I never permitted a Native to touch a theodolite or an original computation, on the principle that the triangulation or scientific work was the prerogative of the highly paid European, and this reservation of the scientific work was the only way by which I could keep a distinction, so as to justify the different figures respectively drawn by the two classes—the European in office time and the Native who ran him so close in all the office duties as well as in field duties. Yet I see that Natives commonly do the computation work, and the Europeans some other inferior duties.’



"Sir, I beg, with all respect, to make a present of this extract to the Hon'ble Sir T. Wynne! One word more, and I have done. Sir, I have admitted that the question is a difficult one, but what I urge is that there should be continuous progress. Nobody urges that the English element should be withdrawn suddenly or even largely, but unless Indians are introduced into the higher ranks in larger and larger numbers, the discontent which the Government are anxious to remove is not likely to disappear. With these words, I strongly support the motion which my Hon'ble friend has brought forward."

The Hon'ble SURGEON GENERAL LUKIS : "Sir, with your permission I should like to say a few words on the subject of the encouragement of independent medical practitioners whose case has been so ably dealt with by the Hon'ble Mr. Gokhale, and in so doing I wish to point out to the Council the various steps that have been taken by Government to improve the position of these gentlemen and also to indicate the lines on which, if they so desire it, they can help themselves. I wish it to be clearly understood, however, that I must not be regarded as the mouthpiece of Government or as holding any brief for the Indian Medical Service. I merely speak as one who has devoted 12 years of his life to teaching medicine in this country and whose interest in the spread of medical knowledge and in the improvement of the status of Indian medical practitioners is just as keen as is that of the Hon'ble Mr. Gokhale in the equally important subject of primary education. Now, Sir, when one considers the status of the Indian medical practitioner in this country, one finds that he labours under three disadvantages which are not shared by his professional brethren in the West. In the first place, when a private medical student has passed his curriculum and obtained his diploma or degree, he is practically debarred from holding any of the important appointments of house surgeon or house physician in the large Government hospitals; these appointments being, as a rule, reserved for civil assistant surgeons. Recognising the importance of this, the Bengal Government has agreed to the suggestion of the Government of India that in future the posts of house surgeon and house physician in the various large Calcutta hospitals shall be thrown open to the most deserving students of each year; whether or no they wish to enter Government service. This, Sir, is a very important boon, and I hope that future generations of medical students and young practitioners will take full advantage of it.

"The second disadvantage under which he labours is that here in India there are no opportunities whatever for post-graduate studies such as exist in connection with all the large medical schools in England and Europe. The result of this is that when a young practitioner goes out to a remote mufassal district, where he is probably over-worked and underpaid and has neither the leisure nor the facilities for study, he fails to keep himself abreast of the times and he very quickly lags behind in the race. Here, again, Government recognises that this is a tremendous drawback and that it militates very largely against his successful career. The Government of India, therefore, is now formulating a scheme for the establishment of a School of Tropical Medicine in Calcutta which it is hoped will be affiliated to the Calcutta Medical College; and for the introduction of a Diploma in Tropical Medicine in connection with the Calcutta University. This School of Tropical Medicine, if it takes shape, will afford facilities not only for post-graduate studies, but also for original research, and it will be open to all properly qualified medical practitioners, whether official or non-official. You will see, therefore, that the young medical practitioner will now have a chance of coming back to his hospital and furnishing up his knowledge; or, if he wishes to do original work, he will have every opportunity afforded to him in the research laboratories attached to the Tropical School of Medicine.

"The third disability to which he is subject—and this is the one upon which Mr. Gokhale laid most stress—is that the independent medical practitioner cannot obtain a share of the professorial and hospital appointments in connection with the big Government medical colleges. That of course is a great disability and it is one that has the serious attention of Government; but it is not for me to enter into it here. In this connection, however, I should like

to draw the attention of Council to certain very sensible advice which was given to the Bombay medical men by Dr. Temalji Nariman when he was entertained at dinner in August 1908 by over a hundred Indian medical men. In the course of his speech Dr. Nariman said :

‘ If Indians wish to bring into existence a profession of native doctors, they should not hanker after one or two minor professorial posts in the Grant Medical College of Bombay, but should all unite and set to work to found a medical college of their own.’

“ Later on in his speech he went on to say :

‘ It is only when we have a large number of teachers with hospital experience that we shall be in the position of an independent profession, and by perseverance, industry and self-sacrifice we are bound to produce young men who will adorn our profession and leave their names to posterity as those of Jenner, Harvey, Lister or Simpson. Founding hospitals alone will not elevate our status. We must have our own college, with laboratories, where some of our best men may carry on original research work. It may take years for its completion, but let us make a beginning.’

“ That, Sir, is very wise and statesmanlike advice. I strongly recommend it to the careful consideration of my Indian colleagues, and I beg of them not to be satisfied by merely obtaining a proportion of the professorial appointments in Government medical colleges. Let them also unite and found medical colleges of their own.

“ In the very excellent speech which we listened to with such interest yesterday, the Hon’ble Mr. Gokhale, when pleading the cause of primary education, said that this was a case in which it was necessary that there should be the cordial co-operation of the Government with the public. May I be allowed to invert the terms and say ‘ This is a case where we want the cordial co-operation of the public with the Government.’ I hope that the wealthy and charitable public will bear this in mind, and I can assure them that if they will do anything to advance the scheme for the institution of unofficial medical colleges, entirely officered by Indians, they will not only be conferring a benefit on the profession, but on their country at large.”

The Hon’ble MR. GOKHALE : “ What about institutions maintained out of public funds, public monies ? ”

The Hon’ble SURGEON GENERAL LUKIS : “ I am not dealing with appointments held by the Indian Medical Service. It is well known that the Government medical colleges and schools cannot accommodate more than a fraction of those who ask for admission. In Calcutta alone, as I know from personal experience, over 200 candidates have to be rejected every year, and there is, therefore, ample room for well-equipped and properly staffed unofficial medical colleges and schools which may be either affiliated to the University or run on the same lines as a Government medical school, but entirely conducted by Indian medical men ; and I look forward to the time when in every important centre in India we shall have well-equipped unofficial medical schools working in friendly rivalry with the Government medical schools and each institution striving its hardest to see which can get the best results at the University examinations.

“ As Dr. Nariman said, this may take years to accomplish, but I earnestly hope that, before I say farewell to India, I shall see it an accomplished fact, at any rate in Calcutta and Bombay ; and if I have said anything to-day which will induce the leaders of the people to give this scheme their cordial support, I feel, Sir, that I shall not have wasted the time of the Council by interposing in this debate.”

The Hon’ble MR. SACHCHIDANANDA SINHA : “ Sir, I rise to give my support to the motion before the Council. I shall very briefly state the grounds on which I do so. It seems to me that there are several reasons why the Government should be pleased to appoint a Commission or Committee to enquire into the question of the appointment of Indians in the higher ranks of the public services. Since the last Commission was appointed and reported, certain rules have been



introduced, for the first time, which take away from the Indians the privilege of competing with their British fellow-subjects in examinations held in England. The Hon'ble Mr. Subba Rao has referred to the examination held in England for the police, in which, in terms, the Indians are excluded from competing; and it seems to me, Sir, and has always seemed to me, a grave infringement of our rights as British subjects that we should not be allowed to compete for any appointments in our own country. I think a Commission would certainly go into a matter like that.

"The second reason, Sir, why I urge the appointment of a Commission is that the list of those appointments which were thrown open to the Provincial Service and are known as 'listed posts' has not been revised for the last twenty years. In 1893, when the House of Commons passed a resolution about simultaneous examinations for the Indian Civil Service, the Government of India sent home a long despatch on the subject embodying the opinions of the different Local Governments and Administrations; and in that I find that Sir Anthony, now Lord, MacDonnell, who was then officiating Lieutenant-Governor of the Lower Provinces, said:

'Let them (Indians) in due time press for a further increase in the scheduled posts to be "listed" or transferred to the Provincial Service; let them on a suitable opportunity urge that . . . the . . . posts now transferred shall be increased . . . All that is necessary now to do is to recognise and provide by rule that this division or the appointment of posts to each class, shall be from time to time revised.'

"This was the suggestion of Sir Anthony MacDonnell, and I find that the Government of India also embodied that suggestion in their despatch to the Home Government. They said:

'There is no finality about the lists of "covenanted offices," which have been thrown open to members of that (Provincial) Service. These lists have been prepared with reference to proximate possibilities; but they are capable of alteration and expansion from time to time as circumstances may require or permit.'

"Now, Sir, there has been a remarkable progress in the country in education during the last 25 years, and I think for this, if no other reason, the Government should appoint a Commission to go into this matter and see to what extent the people of the country are entitled to have these 'lists' amplified and revised. But I think, Sir, that I can go further and say that it seems to me, that, apart from the revision and amplification of these lists, which is now surely desirable, the time has come when this artificial boundary between the Provincial Service and the Indian Civil Service should no longer be maintained. For these reasons, I gladly support the resolution."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA: "Sir, I shall not take up the time of the Council by going into the details of the appointments in the different departments which have already been fully dealt with by other Members. The result of the discussion shows that in many departments Indians are not getting their fair share of the public appointments. The principle that they should freely and impartially be appointed to every office in the different departments for which they may be qualified has long been admitted. I do not think there is anything left to be desired in that direction either in the words of the Statute of 1833 or the Proclamation of 1858, or the subsequent declarations of Government on this question.

"The second point that has been brought out in the discussion by the Hon'ble Mr. Subba Rao is this, that the root of the evil of the exclusion of Indians from high offices lies in not holding simultaneous examinations for the Indian Civil Service in this country as well as in England. In the discussion in 1853, when the throwing open of the principal civil appointments in India to competition was under discussion, this was anticipated. Many members at the time pointed out that, while the Statute did not exclude Indians in terms from the Civil Service, still by requiring that the examinations for it should be held in England alone, it was practically excluding them from those appointments. I will refer to one or two of the speeches of those who took part in the debate. For instance, Lord Stanley said that he could not refrain from expressing the conviction that, 'in refusing to carry on examinations in India as well as in

England—a thing that was easily practicable—the Government were, in fact, negating that which they declared to be one of the principal objects of their Bill and confining the Civil Service, as heretofore, to Englishmen. That result was unjust, and he believed it would be most pernicious. Let them suppose, for instance, that instead of holding those examinations here in London, that they were to be held in Calcutta. Well, how many Englishmen would go out there—or how many would send their sons perhaps to spend two or three years in the country on the chance of obtaining an appointment! Nevertheless that was exactly the course proposed to be adopted towards the Natives of India.'

"Mr. Rich also objected to this restriction that examinations should be held in England alone, and he said that his object was that all offices in India should be effectively opened to Natives. And therefore he would not require them to come over to this country for examination, as such a condition would necessarily entail on Natives of India great expense, expose them to the risk of losing caste, and thereby operate as a bar against their obtaining the advantages held out to all other of Her Majesty's subjects. The course of education through which the youth of India at present went at the established colleges in that country afforded the most satisfactory proof of their efficiency for discharging the duties of office.

"Again, Mr. Phillimore said in the same debate that he also feared that the Bill would prove delusive, and that, although it professed to do justice to the Natives, the 'spirit of monopoly would still blight the hopes and break the spirits of the Indian people.'

"This, Sir, was in 1853. In 1858, when the Government of this country was taken over by Her Majesty, the Statute which was enacted maintained the Indian Civil Service Examination on the footing on which it had been established; but the disadvantage and the unfairness of excluding Indians by confining the examination to London was strongly felt. With a view to devise a remedy for the evil the Secretary of State appointed a Committee in 1860, as Mr. Subba Rao has mentioned; and that Committee recommended in favour of simultaneous examinations being held in this country as well as in England. From that time various attempts have been made to get this done. Mr. Fawcett, for instance, brought a motion in 1868 in the House of Commons in favour of simultaneous examinations being held in Madras, Bombay and Calcutta; and it was, I believe, largely due to that resolution that the Statute of 1870 was enacted. The tardy action taken under that Statute did not give satisfaction, and complaints continued. To meet these complaints the Public Service Commission was appointed in 1886. But instead of improving the state of affairs that Commission has, as many speakers have pointed out, put Indians in a worse position.

"The question which we now have to consider is, will the Government make an attempt to remedy the injustice which has been done by the recommendations of the Public Service Commission being partly accepted? There were two alternatives before the Government of India: one was the holding of simultaneous examinations in this country as well as in England; the other was the creation of Provincial and Imperial Services. We know that the proposal for holding simultaneous examinations was not accepted, but a Provincial Service was created. We have heard what a deal of dissatisfaction has been caused by the creation of the Provincial Service, and that those who belong to that service or are given the option of joining that service feel that it is an inferior service. That this is really so has been attested to by the Government of Madras. The Government of Madras, of all the Local Governments that were consulted on the questions referred to by the Public Service Commission, expressed its opinion clearly in favour of simultaneous examination, and against the creation of a Provincial Service. I beg leave to quote from the despatch in which it said:

'Another reason for altering the status and position of Natives in the Civil Service is to be found in the fact that the new Provincial Service does not in any way satisfy their aspirations and wishes. It is evident that its introduction on the present lines has been a great disappointment to them; that it has relegated them to a distinct and limited service, and instead of placing them in line with the rest of the Civil Service, has confined



them to what they consider an inferior and subordinate position, and that this has been accentuated by the designation which has been applied to them, a designation which they have always associated with a distinctly and well-recognised inferior branch of the Service.'

"The despatch went on to say :

'His Excellency in Council considers, therefore, that it is expedient to remove, by the institution of simultaneous examinations, the disabilities which now tend to hinder the entry of Natives into the Civil Service proper. This step will remove an injustice, or what has almost the same consequences, a feeling of injustice, and it will not endanger the British supremacy or impair the character of the administration as a civilised and enlightened Government. It may possibly, in certain circumstances, weaken executive action; but the disadvantages in this respect are not so certain or so grave as to outweigh the advantages. The increase in the proportion of Native candidates selected is moreover not likely to be so great as is supposed, and it would be advantageous to remove the dissatisfaction and discontent which undoubtedly exists among the natives by some such measure as is now under discussion.'

"It is much to be regretted, Sir, that this wise recommendation was not accepted. Subsequently a resolution was passed by the House of Commons in 1893, but, as we know, unfortunately no action was taken upon that resolution also. The action taken by the Government on the Report of the Public Service Commission has deepened the complaints of Indians. Distinguished statesmen have again and again acknowledged the justice of the claims of Indians to a larger measure of the higher appointments. They have also acknowledged the injustice of the existing arrangements, and yet the injustice remains largely unremedied. It is pleasing to acknowledge that in recent years Government have shown a growing disposition to recognize the justice of these complaints and have been trying to remove them. The recent appointments to some high offices made during the time of Lord Morley and Lord Minto are striking evidence of the desire of Government to remove the injustice or at least to minimise it as much as possible. But, as Mr. Gokhale has pointed out, these appointments do not affect the situation in relation to the bulk of the appointments, and the question remains, what should be done to really improve it? I submit the solution obviously lies in holding examinations for all first appointments, which are held at present in London alone, in India as well. That, Sir, I submit, is the solution. Government may be pleased to adopt it now or it may defer it; but I venture to say that the holding of simultaneous examinations is the only course which will solve the problem with which we are confronted. But until that is done, a great deal can be done, and I hope it will be done, to admit Indians to higher appointments in the different departments of State in which they are employed in very small numbers or from which they are practically shut out.

"I would remind the Government in this connection of the gracious proclamation which His late Majesty King Edward issued in 1908. In that proclamation His Majesty was pleased to say :—

'Steps are being continuously taken towards obliterating distinctions of race as the test for access to posts of public authority and power. In this path I confidently expect and intend the progress henceforward to be steadfast and sure.'

"That, Sir, is the most solemn pronouncement of our late Sovereign on the question raised in the resolution before us. By bringing forward this resolution Mr. Subba Rao has merely reminded the Government of the desirability of taking some steps, of adopting some effective means, by which the desire of His late Majesty would be better given effect to. We also remember the noble message of His Majesty, our present King-Emperor, in which he graciously spoke of the Proclamations of 1858 and of 1902 as the charters of the rights of Indians under the British Government, which charters His Majesty promised to abide by during all his time. We are looking forward with great satisfaction this year to the visit of His Majesty to our country; and nothing would be more pleasing to the people of this country, nothing would raise the Government higher in the estimation of the people, than an earnest indication of the desire to treat, in the matter of appointments to the public service, Indians and Europeans as equal fellow-subjects, as they really are in law. They are no

doubt in theory regarded as such. But it is undeniable that in the apportionment of public appointments a distinction which is entirely illegal and unjust, and which cannot be justified on any possible ground, is maintained. This naturally gives rise to a great deal of dissatisfaction and fosters discontent. If the motion of Mr. Subba Rao to appoint a Commission or Committee is accepted, it will help to remove all reasonable complaints. I am not particular about a Commission. I will be content with a Committee, and even with a Committee which may consist merely of officials. I would be content if a few select officials were appointed to go into the question and to see what bars, if any, have been created in the different departments against the pledges given to the people of India in the Act of 1833 and in the Proclamations of 1858 and 1908, and to recommend how they may be removed. If this is done, Sir, a great deal of justifiable discontent will be removed, and there will be a feeling of gratitude growing up in its place in the minds of the people which cannot be created by the creation of a few high appointments alone. I hope the resolution will commend itself to the Government."

The Hon'ble SIR GUY FLEETWOOD WILSON: "I had an opportunity last week of answering in regard to my own Department, and therefore I do not think I am called upon to make any remarks to-day in connection with the Hon'ble Mr. Subba Rao's resolution."

The Hon'ble MR. CLARK: "I do not think I need endeavour to discuss exhaustively the question of the appointment of Indians in all the divisions and sub-divisions of the hydra-headed department over which I have the honour to preside, and in point of fact only two departments were mentioned to-day. One was the Customs and the other was the Railways. I was a little surprised that the Customs was mentioned, because, as Mr. Subba Rao himself very truly said, of the last three appointments of Assistant Collector that were made, two were filled by Indians. One of these gentlemen, I believe, who has risen to this appointment, is a relatively junior man who has gained his promotion by his merits and ability, and there is no reason why he should not eventually get to the top of the tree. I do not think therefore that there is much ground for cavil so far as the Customs are concerned.

"I now come to the question of the Railways. When this question was raised before at the discussion early last week on the budget, the Hon'ble Mr. Gokhale was not entirely satisfied with the answer which was given to him by my Hon'ble friend the President of the Railway Board. I cannot help thinking there was some misapprehension as to what fell from my Hon'ble friend. I listened myself very carefully to what he said, and I am quite sure he had no intention whatever of conveying the idea that the door is barred to Indians to the higher appointments in the Railways. If I may say so, I think that the standard which has been applied is not a very sound one. The Hon'ble Mr. Mudholkar dealt with the question and gave us figures to show how small a number of Indians had reached the higher appointments. That undoubtedly is true; but it seems to me that if the door were really barred and it were determined not to allow openings for Indians, it would have been impossible for them to have reached the point they have; it would have been impossible, for instance, for the gentleman whose appointment is published to-day in the papers, Mr. Rallia Ram, to have become the Deputy Engineer-in-Chief of a State Railway. And it is on a State Railway that this appointment has been made. As regards the Railways leased to companies, the Government can only endeavour to influence the companies in the desired direction: they cannot compel them to employ Indians; and as regards the companies which own their lines they have no powers at all. It is important to note, as the Hon'ble Mr. Subba Rao himself pointed out, that it is in those companies—the companies over which the State has no control—that matters in this particular are worst.

"A point which the Hon'ble Sir T. R. Wynne emphasised—and rightly, I think, emphasised—was that a special characteristic of this question in connection with the railways is that he and the Railway Board are responsible for the safety of the railways. Efficiency is greatly to be desired in all



branches of Government service, but it must be remembered that in the railways any measure of inefficiency means also the risk of endangering safety. It is therefore not so easy to try experiments of any kind there as it may be in other services. I notice the Hon'ble Mr Gokhale said that if Indians were not fit for these higher posts, it was not their fault that they had not the necessary training and experience. I do not think that was quite a fair way of putting it. As the Hon'ble Mr. Madge pointed out, what we have to consider is the conditions as they are actually now, and if a man does not seem to be thoroughly qualified for a high and responsible post, especially in so serious a matter as railway administration, I do not think anybody could advocate that he should be put into it. Undoubtedly more opportunities are being given now, and I hope the effect of these opportunities will be that more Indians will receive the necessary training and will become efficient and will reach the higher posts."

The Hon'ble MR. SYED ALI IMAM : " Sir, my task in addressing you in connection with the debate that is before you is a simple one, for the simple reason that I do not represent any Department that has got largesses to dole out or offices to give away. Therefore I find that all I can say to the appeal that has been made by some of the non-official Members to Government to-day is that so far as I am concerned as a Member of the Government, I will give that appeal to the best of my ability the sympathetic consideration which it deserves."

The Hon'ble MR. BUTLER : " The Hon'ble Mr. Subba Rao, in the lucid and forcible speech with which he introduced his motion, dwelt somewhat lightly on the position of the Provincial Educational Service, and this matter has received even more attention from the Hon'ble Mr. Gokhale and others. Well I am not in a position to make any statement now about the Provincial Educational Service, because the improvement of the prospects of that service is at the present moment under the consideration of the Government of India. I should like, however, to correct one small error under which the Hon'ble Mr. Subba Rao quite inadvertently has fallen. He said that no Principalship of a Government college could be held by an Indian. At the present moment a first class Government college at Rajshahi has an Indian professor as Principal, and I should like to add, with reference to another remark he made, that the Assistant Secretary in the new Education Department, Kunwar Maharaj Sing, is an Indian. He has not taken up his appointment yet, because he could not be spared by the Local Government, and he will join in Simla ; but he is the first Assistant Secretary appointed to the Department. At the close of his speech the Hon'ble Mr. Gokhale made some remarks about competitive examinations. I must not deal with those remarks at any length because they do not fall within my department ; but I happen to have read in the newspapers of last week or the week before that there is a very strong demand in England now, which is headed by so able an educationist as Professor Sadler, for the appointment of a Royal Commission to enquire into the question of the suitability of competitive examinations for selecting men for posts under Government. There is a strong reaction in England at the present moment against the system of recruitment for the public service by competitive examination. I do not think I need detain the Council any more ; I cannot make any statement on the only subject of real interest to them."

The Hon'ble MR. CARLYLE : " So far as regards the departments entrusted to my charge, complaints have been made of the state of things in the Survey and in the Public Works Departments.

" So far as the Survey Department is concerned, as I have said on a previous occasion, it must for obvious reasons continue to be administered mainly by military officers. The question of the Provincial Service and the possibility of giving them higher appointments is now under consideration. I may add that in Colonel Burrard the Department has a head who may be trusted to deal sympathetically and justly with every class and race in the Survey Department.

"In the Public Works Department the whole question of the relations between the Imperial and Provincial Services is being dealt with, and I trust it may be possible to arrive at some solution which will generally be recognized as just and satisfactory.

"So far as the ten per cent. limit on the appointment of Indians to the Imperial Service is concerned, it is not easy at present to get that proportion of fully qualified Indians at home."

The Hon'ble MR. EARLE: "I must in the first place congratulate the Hon'ble Member on the wide and general terms in which he has framed his resolution. I was afraid from the enquiries which he had at one time made from the Home Department—and they were exceedingly numerous—that he intended to move that the Government of India should make a definite pronouncement as to the line of action which they would take in regard to particular services. In that case it would have been rather difficult to have given a satisfactory reply. Inasmuch, however, as he has couched his resolution in very wide and general terms, it is possible to indicate the general direction of the way in which the Government of India are prepared to move.

"I had intended to say a good deal about what we propose to be done in regard to the medical service, and particularly with regard to the development of an independent medical profession. I shall not do so, however, having regard to the lateness of the hour and to the fact that my friend the Hon'ble Surgeon General Lukis has already touched upon one of the points on which I had intended to speak. I may just mention, however, to the Council that the Government of India are taking a great interest in the development of an independent medical profession and that various questions in that connection have lately been referred to the Local Governments for consideration. The whole matter will be considered during the current year and we shall perhaps be able to say something on the subject next year.

"As regards the question of the police service, which has been specially mentioned by the Hon'ble Member, I would note that the following system of recruitment obtained between 1893—1905. A portion of the superior police force was recruited by a competitive examination in England, for which Europeans only were eligible; while the rest were selected in this country under a combined system of nomination and examination, to which Indians were also eligible. Then came the Police Commission's Report of 1905, and their recommendation was that direct recruitment to the superior police should be restricted to Europeans, the examination being held in England. This proposal was accepted. Now, although Indians are not eligible for direct recruitment to the superior police force, deputy superintendents, who are recruited almost entirely from among Indians, and who form a service similar to the provincial civil service, can be promoted to the superior service up to, for the present, a limit of 5 per cent. of the number of superintendents in a province. This works out at present to a total of 15 posts out of a total of 306.

"The main question to be considered appears to be whether Indians should be admitted to the open competitive examination in England as they are in the Indian Civil Service and Indian Medical Service, in addition to making a certain number of posts available for promoted deputy superintendents. The question was carefully considered by the Police Commission in paragraph 69 of their Report, and an adverse opinion was arrived at on the ground that recruitment in this country was the best system in the case of Indians required for the police force. In view of the very recent re-organization of the police service, it is perhaps too early to re-consider the matter at present. We should watch the effect of the new scheme for some time and see how the proposal to appoint deputy superintendents as superintendents turns out. The Government of India will be glad to see the 5 per cent. of places which are now available for Indians occupied by deputy superintendents as soon as circumstances allow.

"I will now turn to the case of the Indian Civil Service and the Provincial Service with which it is connected. The Indian Civil Service Act, 1861,



practically lays down that most of the important appointments in the administration should be held by covenanted civil servants of the Crown, but, in special cases, persons other than covenanted civil servants could be appointed to the posts referred to. Inasmuch, however, as the permissive sections of this Act were not found in practice to be sufficiently favourable to Indians, the Government of India Act, 1870, was passed for the special purpose of facilitating the appointment of such persons to posts previously held by covenanted civil servants. This Act is, to use authoritative language, 'the parliamentary remedy for any inconvenience or injustice which Indians might be shown by experience to suffer through the necessary adaptation of the examination in London to the convenience of home-born rather than of Indian competitors for the civil service.'

"The first tangible fruit of the Statute of 1870 was the statutory rules of that year, which provided that a proportion of the recruitment for posts in the covenanted civil service up to a *maximum* of one-sixth in each year (exclusive of military recruits for non-regulation provinces) should be reserved for Indians appointed in this country. Altogether, between the years 1870 and 1889-1890, 69 statutory civilians were appointed. This system was abolished in the year last-named on the recommendation of the Public Service Commission, the plan of nomination having failed 'in securing sufficient guarantee of ability and education in persons appointed under the rules. Although it was considered that in most cases the nominations actually made had been fairly satisfactory, it was generally felt that no antecedent guarantee existed of the fitness of the persons selected.'

"As a result of the Public Service Commission's report, a provincial civil service was constituted from the higher ranks of the previously existing subordinate executive and judicial services, and a proposal was made that one-sixth of the covenanted charges (excluding the proportion reserved for military officers) should be removed from the cadre of the covenanted civil service, and that these should be thenceforward open as a permanent arrangement to members of the provincial civil service. The covenanted civil service was thus to be reduced to a *corps d'élite*, by limiting its numbers to what was necessary to fill the chief administrative appointments of the Government, and such a number of the smaller appointments as would ensure a complete course of training for junior civilians.

"The Commission specifically recommended that 108 posts usually held by civilians should be made available for provincial service officers. After, however, consulting Local Governments, the Government of India decided in 1892 that the number should be 93, this figure being considered as suitable to meet proximate reasonable requirements and to be worked up to after satisfying the claims of officers already in the service. It was understood that there was to be no finality about the list. The list was to be subject to alteration and expansion from time to time according to varying circumstances. The system of listing posts was to be final, but it was contemplated that in course of time the proportion of one-sixth might possibly be exceeded.

"In this connection I would refer to the remarks made by my Hon'ble friend Mr. Subba Rao in which he said that only district judgeships and collectorships are at present included in the list of listed posts. That is perfectly true, but at the same time there is absolutely nothing to prevent any post being given to an Indian. Thus, lately we have appointed an Indian as Commissioner at Lahore, and, if I am not mistaken, the brother of the Hon'ble Mr. Chitnavis is a Commissioner in the Central Provinces. There is nothing to prevent the Government of India from appointing a Secretary to the Government of India from among the ranks of Indian officials if they think fit. I think that the Hon'ble Member was mistaken in what he said in this respect.

"I will now show what has in fact been done to carry out the scheme. As above indicated, the scheme contemplated 93 posts being made available to provincial service officers as soon as the claims of officers already in the covenanted service allowed this to be done and duly qualified candidates were forthcoming. Since that time the number of listed posts has increased from

93 to 102, while the number of posts actually held by statutory civilians or provincial service officers has increased from 56 to 92. Moreover, now that there are only 21 statutory civilians left, the large majority of these 92 posts, *viz.*, 71, are held by provincial service officers.

"I will now explain that there is still a wide margin of posts available for provincial service officers. At the present time (1911) the number of posts held by members of the Civil Service, excluding posts held in Burma by military officers, is 993. One-sixth of this number is 165—very nearly what Mr. Gokhale mentioned. I think he mentioned the figure 163. There is, therefore, a wide margin, 165 *minus* 102, or 63 posts, still left for Provincial Service officers.

"The question naturally arises at this stage how it is that the listing of posts has not been taken up more vigorously in the past. That is a perfectly legitimate criticism and question to put. In the first place, it must be remembered that the scheme was always considered to be an experimental one, and that the intention was that the maximum of one-sixth should only be worked up to if the system proved successful, and, in order to enable a proper opinion to be formed on the subject, a considerable probationary period was obviously required. In the next place, Burma and Assam were not considered ripe for the system of listing until recently (1905 and 1907, respectively). Again, large additions to the Indian Civil Service cadre have in recent years been found necessary. Thus, in Burma and the Punjab 54 new officers (22 in the former and 32 in the latter) have been recruited owing to the rapid development of those provinces. Next, the two provinces of Bengal and Eastern Bengal and Assam, taken together, account for an increase of 38 posts. Similarly, the creation of new districts in Madras accounts for 14 new posts, while the amalgamation of Berar with the Central Provinces and the decision to man the former in future from the Indian Civil Service accounts for 19 more posts. It must also be borne in mind that in 1893, after the decision to list 93 posts had been arrived at, the Government of India expressed their opinion that the European service was at its *minimum* strength and that no further reduction would be practicable for some years to come.

"On the other hand, no systematic enquiry has been made in order to ascertain whether more posts could be listed so as gradually to work up to the one-sixth proportion, as proposed by the Public Service Commission. It must be admitted, therefore, that there is a *prima facie* case for enquiry, and such enquiry will most certainly be made.

"The Hon'ble Member has advocated the holding of simultaneous examinations and the giving of all the higher appointments in India by competitive examination only. I fear that the Government of India can give him no encouragement in that respect. From the time of the famous despatch of the Duke of Argyll of 1869 to the present day, it has consistently been held that though a competitive system is generally suitable for the recruitment of Europeans in England and of those Indians who elect to proceed to England for the examination, it is not the best system for recruiting in this country Indians whom we require to assist us in the administration. There is no particular merit about open competition even as regards Europeans; but, given a good education in England, competition does secure in a general way good results. The case is totally different as regards the selection of Indians. The average education given at schools and colleges in this country is still some way behind that given at similar institutions in England. Moreover, it is not only the intellectual character of the education given that is of importance: it is the general character of the training which has to be looked to. Another grave objection would be the injurious effect which a simultaneous examination conducted in this country would be likely to have upon the development of education here. Even in England there has been considerable trouble in this respect, and in India it is certain that not only would private institutions be created for the main, if not the whole, purpose of offering special preparation, but the regular institutions would not be able to resist the temptation of so shaping their courses of study as to secure success at the examination rather than to impart a general liberal education to the mass of their scholars.



"Then there are the very grave difficulties connected with the personnel to be recruited. A fair proportion of Europeans is, as already indicated, essential. What is equally important is that the recruitment of Indians should be such as to secure that a fair proportion of the offices should be given to the various communities in India. These results could not be secured under any system of simultaneous examination. I think that for the present we must adhere to the present system. Then those Indians who are recruited in England will have been trained in the highest and best form of English education, and will, in the words of Lord Macaulay, 'enter the service in the best and most honourable way.' On the other hand, Indians recruited in India, as at present, by a system of careful and cautious selection and by promotion according to tried ability will, in the words of the Duke of Argyll, be recruited 'by a competitive examination of the best kind.'

"The Hon'ble Member has referred to the fact that the open competition in England has not produced results favourable to Indian competitors. It is true that the number of successes have not been large—5 per cent. of the total. Much better results might, however, have been secured if there had not been a large falling off in the number of Indian competitors in recent years. Why this has been the case, the Hon'ble Member probably can tell better than I can. In any case a low percentage of success is not a sufficient reason for subverting a good working system, though it might be a good reason for taking up the investigation which I have already suggested as to whether we cannot now work up to the full proportion of one-sixth of listed posts, as recommended by the Public Service Commission. In this connection I might note, for the information of the Hon'ble Member, that whereas in 1886, when the Commission was appointed, there were only 12 Indians in the Civil Service, there are now 64.

"As a matter of general interest, the Hon'ble Mover of the resolution may be glad to know that considerable progress is being made in respect of the appointment of Indians to posts carrying a salary of Rs. 1,000 and over. It was pointed out in the budget debate of 1904-05 that in 1867, out of a total of 648 such appointments, 12 were filled by Indians, all Hindus, or a percentage of 2; whereas in 1903, out of 1,370 such appointments, 71 were filled by Hindus and 21 by Muhammadans, the percentage of posts held by Indians being therefore 7. The present position is that in 1910, out of 1,882 such appointments, 134 were held by Hindus and 27 by Muhammadans, the percentage of posts held by Indians being therefore 8.6.

"I cannot help thinking, both from what the Hon'ble Mover has said to-day and from remarks which he has let fall to me from time to time, that what he is chiefly concerned about is the status of the provincial civil service. He would like to see the status of that service, or at any rate of those members of the service who attain to listed posts, improved. He has given no clear indication as to what he wishes; but, in referring the question of listing posts to Local Governments, the matter will be borne in mind.

"In conclusion, I may say that the Government of India will readily refer to Local Governments in order to see how far it is now practicable to work up the recommendation of the Public Service Commission. They do not, however, think that for this purpose the appointment of a Commission is called for. It must be remembered that the Public Service Commission was appointed only when, after two years of discussion, it was found impossible to arrive at a satisfactory solution of the questions involved. No such necessity now exists, as the question to be decided is a simple one, namely, to ascertain from Local Governments how many more posts can be listed up to the maximum of one-sixth. The appointment of a Commission would merely mean waste of time and labour. If the Government of India is left to take action of their own accord, much progress might be made within the course of this very year. On the other hand, if a Commission were appointed, we could not expect to see the result of its labours for at least a year or eighteen months, and then there would be a further great delay in consulting Local Governments. The Government of India are fully alive to the importance of associating Indians in the adminis-

tration of the country, and, as I have explained, the subject is one which has constantly engaged their attention."

The Hon'ble MR. SUBBA RAO: "Sir, I have listened with much interest to the sympathetic speeches that have fallen from the Hon'ble Members opposite, who are in charge of the different departments of Government. I am glad to hear that their earnest desire is to associate Indians more largely in the government of the country. But I have to express my regret that the way in which it is proposed that Indians should be associated more largely with the government of the country is to be on the old lines. We know that under the Statute of 1870 lists were drawn up on the recommendations of the Public Service Commission, based on the rule that one-sixth of the appointments reserved for the Indian Civil Service should be given to the members of the Provincial Service. Hitherto the number of appointments which listed was only 102, and, if that proportion has to be worked up to, it will come to something like 165. It is stated now by the Hon'ble Mr. Earle that it will be the endeavour of the Government to work up to that proportion.

"All this means that there is to be the Provincial Service and members from that service will be selected according to their ability to fill the posts which will be listed to make up the proportion. In fact, if the old plan is continued, I do not see a way out of the difficulty which has been created by the recommendations of the Public Service Commission and the orders thereon. Though we are glad to learn that an enquiry would be made to list more posts for the members of the Provincial Service, I regret to say that so long as the present system continues, there cannot be any real contentment in the country, because a line of demarcation is drawn between the two services and the stigma of inferiority is attached to the members of the Provincial Service. The Hon'ble Mr. Earle pointed out that there was no finality with regard to the lists already drawn up. I quite admit that the lists might be modified or enlarged from time to time, but what I have been pressing upon the attention of the Council is that so long as the present orders are there, you have to go up to the Secretary of State to modify them if you want to list certain places. The matter was arranged rather in a peculiar way. Certain principles were laid down for listing the places; then the Government of India, apparently with the sanction of the Secretary of State, in April 1892 fixed the places that should be listed; and then in November published the rules under the Statute of 1870 and authorised Local Governments to notify in the official Gazette the listed places to which they might appoint members of the Provincial Service. I quoted a passage from the Government of India Despatch of August 1892 to show that this scheme was intended to be a final settlement of the claims of the Indians for higher employment. I shall, however, accept the statement of the Hon'ble Mr. Earle that the lists as framed are not final and may be modified by the Government of India or by the Local Government. In this connection I shall draw the attention of the Council to the resolution brought in the Madras Legislative Council by the Hon'ble Mr. Raghunatha Rao that the Madras Government might be pleased to appoint an Indian to the Board of Revenue. The answer given by the Hon'ble Mr. Hammick on behalf of the Government of Madras was to this effect: 'we are powerless; we cannot do anything; it is the Secretary of State, under the Statute, that can make the appointment.' So the resolution was withdrawn since the Madras Government confessed its inability to make the appointment under the present rules. Therefore, as far as I can see, the rules and orders issued on the subject seem to direct 'thus far you shall go and no further.' And this has been going on from the year 1892 without any change.

"Now, the Hon'ble Mr. Earle, to show that the lists are not final, said: 'We have recently given the appointment of a Commissioner in the Punjab to an Indian; we have also given another appointment like that in the Central Provinces.' I may point out that those appointments were not made under the Statute of 1870. The Statute of 1870 applies only to the regulation provinces and the Government of India were authorised to frame rules under the Statute with regard to the regulation provinces only. But so far as non-regulation provinces were concerned, the Government of India were



at perfect liberty to appoint anybody they pleased to any post they liked, under executive orders. Consequently the rules as framed have no application whatever to the non-regulation provinces, and the appointments made in the Punjab and in the Central Provinces had nothing to do with the rules framed under the Statute of 1870. I was, therefore, perfectly correct in stating that the Government of India, so far as the regulation provinces were concerned, had to go by the rules framed under the Statute, and for the time being the rules and orders issued on the subject are binding upon the Government of India and the Local Governments.

"Sir, it is unnecessary in connection with this resolution to discuss the question of the propriety of holding simultaneous examinations in England and India and the conditions under which they should be held here. It is a very large question, and a bulky volume was sent up by the Government of India on this subject to the Secretary of State in 1893. I hope shortly it would form the subject of a resolution when the Hon'ble Member opposite may defend the position which he has taken up at this meeting. The suggestion which I have made is that if simultaneous examinations in both countries are not feasible, examinations of equally high standards, limited to nominated candidates from the whole of India, might be held here. This is a suggestion which I have made for the consideration of the proposed Commission.

"Now, the Hon'ble Mr. Earle has said that no particular suggestion has been made with regard to the removing of the stigma of inferiority attaching to the Provincial Service. I am glad to learn that the Government of India propose to make an enquiry into the matter and that this is one of the special points that will be considered. We shall of course wait for the result of the enquiry proposed to be made by the Government of India, and I shall not at this meeting press this resolution. Let them make the enquiry by all means. Let them refer this question to the Local Governments as to how the present discontent which is caused by the differentiation of the two Services can be removed. I have made my suggestion that the only way to remove the stigma and do justice is by having examinations in both countries. We have waited for a good long time and we shall wait till the Government makes full enquiry into this matter. I am sure the conclusion which they would come to, if really they want to remove the stigma, would be to have some kind of competitive examination in this country as well as in England.

"I do not propose to refer to the speeches made by the other Hon'ble Members opposite. It is enough for the present that the Government has promised to make an enquiry on the subject. I have a good deal to say as regards the Police, the Survey and other Departments. I hope we shall bring up a resolution with regard to each Department, when each Department can be considered on its merits. It is not fair that we should now discuss the details of each Department in connection with this resolution. I reserve that question for the present. We must first settle the main principles. In conclusion, I beg permission, Sir, to allow me to withdraw this resolution with liberty to bring it forward next year, when I hope we shall be in a better position to deal with this resolution. The Hon'ble Mr. Earle says that if a Commission is appointed, it will take a lot of time, whereas the Government of India will finish the business in no time. That is certainly true, if time is the only consideration. We shall gladly wait for some more months and I hope the result of the enquiry will be satisfactory."

The resolution was withdrawn.

The Council adjourned to Monday, the 20th March 1911.

J. M. MACPHERSON,

*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA; }  
The 30th March 1911. }

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,  
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS  
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS,  
1861 TO 1909 (24 & 25 VICT., C. 67, 55 & 56 VICT., C. 14,  
AND 9 EDW. VII, C. 4).

The Council met at Government House, Calcutta, on Monday, the 20th  
March 1911.

PRESENT :

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.C.M.G., G.C.V.O.,  
G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*,

and 65 Members, of whom 57 were Additional Members.

INCOME-TAX (FACTORIES).

The Hon'ble SIR GUY FLEETWOOD WILSON laid on the table a statement\* shewing the percentage allowed in different provinces for depreciation on machinery and buildings in ascertaining the net profits of factories for income-tax purposes, and the method by which the capital cost is estimated in each case, which was asked for by the Hon'ble Sir Sassoon David at the meeting held on the 31st January 1911.

The Hon'ble SIR SASSOON DAVID: "My Lord, may I ask leave to put a supplementary question on the statement laid on the table?"

His Excellency: "YES."

The Hon'ble SIR SASSOON DAVID: "In view of the disparity shown by the percentages allowed in different provinces, will Government be pleased to consider the desirability of adopting uniform rates for depreciation on machinery and buildings in ascertaining the net profits of factories for income-tax purposes and a uniform method of estimating capital cost in all provinces."

The Hon'ble SIR GUY FLEETWOOD WILSON: "I should like to have notice of that question."

QUESTIONS AND ANSWERS.

**The Hon'ble Pandit Madan Mohan Malaviya asked :—**

"Has the attention of Government been drawn to the following passage in the Presidential address of Mr. R. N. Mukerji at the last session of the Indian Industrial Conference :—

"The Government of India issued on the 29th of October last a revised rule for the supply of articles for public service. It says :—“When serious inconvenience to the public service would be caused by waiting to obtain an article from England through the Director General of Stores, or when, owing to the greater promptitude of supply, an economy can be effected by purchasing in India articles which, under the foregoing rule, should be obtained through

\* *Vide* Appendix A.



the Stores Department, the purchase may be made in India, subject to rule 13; provided that the articles are already in India at the time of order; but in such cases, if the value of the article exceed Rs. 50, the sanctioning officer should place on record the reasons which make the local purchase desirable. This record shall be available for the inspection of the Examiner of Accounts or the Supervising Officer when required." When we read through the above order carefully, we note that it begins with the qualification, that when a *serious* inconvenience (the word *serious* is important) would be caused; and it goes on to say that when an *economy* can be effected by purchasing in India, and concludes by saying that when the value of the articles exceeds Rs. 50, the sanctioning officer should place on record the reasons which make the local purchase desirable.'

"Is the Government disposed to make a suitable revision of the said rule in the interests of manufacturers and merchants in India?"

**The Hon'ble Mr. Clark replied :—**

"The Government of India have seen a report of Mr. Mukerji's Presidential address to which the Hon'ble Member refers.

"The revised rules for the supply of articles for the public service were issued in July 1909, with a Resolution of the Government of India fully explaining their application. Rule 5 was merely corrected in October last so as to remove a possible ambiguity in its wording. But this correction did not affect the application of the rule in any way.

"The rule permits the relaxation of the general prescription that imported stores should be obtained through the agency of the Director General of Stores in England. It has no reference to articles manufactured in India, which are governed by rules 1 and 2 of the Stores Rules, providing that preference shall always be given to articles of Indian manufacture when the quality is satisfactory and the price not unfavourable. The interests of the Indian manufacturer are not therefore affected.

"As regards the interests of merchants who deal in imported stores, the new Stores Rules are more liberal than the Rules they replaced. Economy on the ground of greater promptitude of supply is allowed as an additional reason for purchasing in India. And rule 3 (a) permits articles to be bought in the local market when they are in India at the time of the order and when the cost of supply does not exceed the limits prescribed by rule 13."

**The Hon'ble Pandit Madan Mohan Malaviya asked :—**

"(a) Has the attention of Government been drawn to the remarks of Mr. R. N. Mukerji in his Presidential address at the last Indian Industrial Conference in regard to the competition of Indian and Russian manganese ore in the European markets, and the decline of the exports of manganese from India and increase of the same from Russia owing to the reduced transport charges sanctioned by the Russian Government with the object of fostering and helping the trade?"

"Are the facts as stated by Mr. Mukerji correct? If so, will the Government be pleased to say whether they will consider if India may be enabled to retain some portion of the trade by reduction of the railway freight from the mines to the port? Is it a fact that such a reduction would not involve any loss to the Railway concerned inasmuch as 'a large portion of the wagons now returning empty, particularly on the Bengal-Nagpur Railway, would then be carrying manganese?'"

**The Hon'ble Sir T. R. Wynne replied :—**

"The attention of Government has been drawn to the remarks made by Mr. R. N. Mukerji, in his Presidential address at the last Indian Industrial Conference, in regard to the competition of Indian and Russian manganese ore in the European markets.

“Mr. Mukerji’s statement that Indian exports of manganese have declined and that Russian manganese exports have increased, owing to reduced charges sanctioned by the Russian Government for railway transport, is not borne out by the official returns of Indian and Russian export trade. These show that there has been a very large increase in the export of Indian as well as of Russian manganese since 1908, which was a year of very marked depression in the steel trade. The average quantities exported each month during the last three years are as follows :—

Year.	MONTHLY AVERAGE EXPORT IN TONS.	
	India.	Russia.
1908 . . . . .	35,621	36,522
1909 . . . . .	38,940	50,740
1910 (first ten months) . . . . .	51,002	58,764

Both the Indian and Russian ores have now recovered from the depression of 1908. Russian ore, being high in phosphorus, is largely in demand for the German market, as steel manufacturers there largely employ the basic process, whereas in the United Kingdom and United States, where the acid process is more largely used, the purer ores of Brazil and India are preferred. The German steel trade recovered more quickly from the depression of 1908 than did the trade of the United States, which is still somewhat depressed, or the trade of the United Kingdom, where recovery was retarded by the strikes which occurred during 1909. Consequently the recovery of the Russian manganese trade has been more rapid than in the case of the Indian industry. There is no evidence to show that up to the end of 1910 any reduction in rates had been made for the carriage of manganese on Russian railways.

“As regards the latter part of the question, I may point out that the railway rate at which manganese is carried is the lowest permissible for any commodity, except coal, and that at this rate the export of manganese from India has risen from 134,000 tons in 1900 to 600,000 tons in 1910. I would further point out that there are many transactions, besides railway transport, connected with the manganese export trade, such as the quarrying of the ore, the carting to the railway, handling at the port and sea freight, which would seem to offer a field within which economy in cost of production and transport might be exercised.

“As at present advised, the Government of India do not consider that a case has been made out which would justify them in endeavouring to secure the concurrence of the railways concerned to a reduction in the rates they are now charging.”

**The Hon’ble Mr. Gokhale asked :—**

“(a) Has the Government received any information regarding the new proposals of the Union Ministry in South Africa for dealing with the question of British Indians in that sub-continent, and specially in the Transvaal?

“(b) If so, will Government be pleased to lay such information on the table?”

**The Hon’ble Mr. Clark replied :—**

“The Government of India have received the draft of a Bill for regulating immigration into South Africa. The Bill\* is laid upon the table.

“The Government of India have further been informed that clause 5 of the Bill, which defines persons not deemed to be prohibited immigrants, is intended

\*Not printed.



to apply only to immigrants and not to persons domiciled or legally resident in the Union of South Africa, whose rights in the case of Asiatics are regulated by other laws which have not been repealed in the Bill."

**The Hon'ble Mr. Chitnavis asked :—**

"Has the recommendation for the consolidation of land-revenue and cesses in the Punjab, contained in paragraph 10 of the Settlement Commissioner Mr. J. Wilson's note of 30th November 1900, on Mr. R. C. Dutt's letters on the Indian Land-revenue System, been considered by Government, and what decision, if any, has been come to?"

**The Hon'ble Mr. Carlyle replied :—**

"The recommendation in question was that the demand for land-revenue and cesses in the Punjab should be lumped together and assessed on the land-revenue in one sum, the total proceeds for each district being allotted in fixed proportions by one annual calculation at headquarters to the different heads of expenditure. The proposal was carried out in a slightly modified form on the Jhelum Canal, but there are account difficulties connected with the scheme, and the Local Government has not proposed its extension elsewhere. Further complications have since been introduced by the remission of the famine and patwari cesses, and by the proposal of the Decentralization Commission that district boards should have power to alter the district cess from time to time. The Government of India have accordingly taken no further steps in connection with the recommendation made by Sir James Wilson."

**The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur asked :—**

"(a) Will the Government be pleased to state whether a report of the administration of the Muhammadan charitable and religious endowments now under Government management in the different Provinces was published at any time?"

"(b) Will the Government be pleased to state whether they intend to direct the Local Governments concerned to publish annual reports of the management of such institutions regularly for general information?"

**The Hon'ble Mr. Jenkins replied :—**

"The Hon'ble Member is no doubt aware that some Muhammadan charitable endowments have been vested in the Treasurers of Charitable Endowments, and that in these cases the Treasurers concerned are required by section 9 of Act VI of 1890 to publish annually lists of the properties vested in them and abstracts of accounts."

"The Hon'ble Member is also no doubt aware that, generally speaking Government is debarred by the provisions of Act XX of 1363 from the management of religious endowments. The Government of India have no information as to whether any reports on Muhammadan religious and charitable endowments under Government management are published by, or under the orders of, the Local Governments, but they will make enquiry on the subject, and ask the Local Governments to consider whether it is or is not desirable that annual reports should be published in future, in cases in which they are not published at present."

**The Hon'ble Maung Bah Too asked :—**

"Will the Government be pleased to give the details of the [calculations of the Accountant General of Burma upon which Sir Hugh Barnes in a speech delivered in February 1905 based his statement that the year 1904-1905 was the first in which Burma paid its own way."

**The Hon'ble Sir Guy Fleetwood Wilson replied :—**

"I will lay the return asked for."

## PREVENTION OF SEDITIOUS MEETINGS BILL.

The Hon'ble Mr. JENKINS : " I present the Report of the Select Committee on the Bill to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity. f

"The only change of importance made in the Select Committee is in clause 1, sub-clause (2). It was recognised that many of the provinces are not homogeneous and consist of parts in which sometimes conditions differ very widely. It was therefore thought proper that Government should be able to extend the Act to any part of a province and not be compelled, if the Act were extended at all, to apply it to the whole of a province. I think it will generally be admitted that this amendment is a very proper one.

"The other amendments are of no great importance. In clause 4, sub-clause (2), we have limited the grade of police-officers who may be directed to attend public meetings, to police-officers not below the rank of head constables ; and in clause 8 we have provided that offences under the proposed Act should be triable only by a Presidency Magistrate, Magistrate of the First Class, or Sub-Divisional Magistrate.

" I move Your Lordship to suspend the Rules of Business."

His Excellency THE PRESIDENT : " I declare the Rules suspended."

The Hon'ble Mr. JENKINS : " I now move that the Report be taken into consideration."

The Hon'ble Mr. MUDHOLKAR : " My Lord, I regret the resolve of Government to place the Seditious Meetings Act permanently on the Statute-book of the country. My regret is all the greater because the form in which the measure is now brought shows beyond question the desire and the anxiety of Your Lordship and of the Members of the Government to conciliate public opinion. I recognise that the new Bill leaves out two of the most objectionable and generally assailed provisions of the Act of 1907. It was round the presumption contained in clause 3 of section 3 of that Act and the words ' political subject ' in section 4 that the battle raged most fiercely. Dr. Rash Behari Ghose and Mr. Gokhale urged that it was contrary to the principles of sound jurisprudence and opposed to the genius of British law to presume that a meeting of more than twenty persons was a public meeting, and that the burden of proving the contrary lay on those who asserted it. Sir Harvey Adamson said that the Government refused to yield on the point, for the presumption was vital to the measure. Your Lordship's Government have abandoned that position and conceded the principle, which Dr. Rash Behari Ghose contended for, that the Crown must make out all the elements necessary to establish an offence and ought not to be permitted to start with a presumption. Similarly, section 4 and the subsequent sections laid a ban on every meeting for the discussion of a political subject, similar to that devised for those likely to promote sedition or to lead to a breach of the peace. Against that principle a vigorous stand was made, but the Government would not yield. In removing these two provisions, so strongly opposed, Your Lordship's Government has made a graceful concession to public opinion. The power given to the police has also been taken away. A fourth very important change is that, before proclaiming an area, it is not only the judgment of a Local Government that will be applied but that of the Government of India also will have to be brought under requisition. I quite see that, before moving the Government of India, a Local Government will carefully consider whether it has got a case which would stand the close scrutiny which the Governor General and Members of the Council will bring to bear upon it. This is not a small improvement—no trivial change. It supplies an additional check upon hasty action and local prejudices. My Lord, I have set out at some length the nature of the large concessions made by the new Bill. I have done so from two reasons : one, to make it clear to Government and to Hon'ble



Members who hold views different from mine, that my inability to approve of the proposed legislation is not due to an imperfect knowledge of its provisions or insufficient realization of its good points. The other reason is to show to my own countrymen that even if the Bill is passed into law, this new law will be a considerably milder measure than the one which it replaces. I do not understand, my Lord, that disposition shown in some quarters to belittle and minimise the value and importance of the alterations made by the Government. This belittling comes from the supporters of the Bill. If it had come from persons who disapprove of it, it would have been perfectly intelligible. Be the reason what it may and let others say what they may, to me and to many persons with whom I had discussions—and there have been numerous discussions, my Lord, carried on with the sole object of arriving at a proper judgment on a matter surrounded with difficulties—it has appeared to me and to the numerous informed and thoughtful Indians with whom I have discussed that in preparing this Bill the Government have gone a great way to remove the most objectionable features of the old law.

“We appreciate the solid nature of the concessions and gladly and gratefully acknowledge the conciliatory spirit which actuates Your Lordship’s Government.

“Having admitted all that can be said about the Bill being an improvement on the old law which is about to expire, I still am unable to assent to its principle, to the policy, that is, of placing a law of the kind permanently on the Statute-book. It is admittedly and avowedly a measure of an exceptional character. The enactment of the now expiring law was demanded on the ground that an utterly unlooked for, exceptional state of things had arisen which could not be met by the ordinary law of the land but could only be met by exceptionally strong measures. Some of the Local Governments explicitly admit that with the disappearance and cessation of the spirit of turbulence and hostility to Government which has manifested itself in certain quarters in some provinces, the need for keeping the Act in operation will also cease. There seems to me therefore an inconsistency between the grounds on which legislation like the present, avowedly of an exceptional character, is asked and the demand for giving it a permanent place in our legal enactments.

“Admitting (what I never denied) that there had arisen a most deplorable state of things in several areas and towns, the very fact that it was unlike anything which had been known justified at the best the enactment of a temporary measure if the powers conferred by the Penal Code, the Criminal Procedure Code and the Police Laws were shown inadequate to put down this state of things. A permanent law was even then not called for and was not enacted. It is now conceded on all hands that during the last two years an immense improvement has taken place. Under these circumstances it is clearly a case of *non sequitur* to demand that the exceptional law should now become a permanent feature of our legal system.

“There is, my Lord, another consideration which I would urge. The law of 1907 was at first demanded as a permanent addition to the Government’s legal armoury. It was on the representation of the public enacted for three years only. The wisdom of that course is amply justified by the important alterations that have been made. My Lord, there is the strongest necessity for not giving this exceptional legislation a permanent form. Things which were considered vital have been abandoned. Indeed, we are told that they were not of any importance, and that it mattered little whether they were or were not in the Act. Police interference has been cut down and a powerful check imposed on the action of the Local Government. Is it likely that these great changes would have been made but for the obligation which lay on Government to reconsider and weigh the whole situation? It Your Lordship’s Government—and the personnel of the present Government is entirely different from that of 1907—felt it their duty to revise the action of their predecessors, will Your Lordship and the Members of your Council take it

upon themselves to render the task of your successors less easy? Of those who took part in the deliberations of that memorable day, the 1st of November 1907, there are in this Council only His Honour Sir Edward Baker and the Hon'ble Mr. Gokhale. The present measure has come before an almost entirely new Legislative Council. This fact in no small measure accounts for the facility with which improvements have been made and accepted. The same opportunity that we had may well be accorded to our successors. There is considerable likelihood that they will as freely revise our Act as we are doing that of our predecessors.

"Assuming that exceptional legislation is needed to meet the exceptional circumstances which have arisen, both *a priori* considerations and our own experience counsel only a temporary measure.

"I would, however, seriously urge it upon Government and the Council whether any legislation of an exceptional character was and is demanded. I am in complete accord with the view of Government that the maintenance of law and order is the first duty of a Government, and when these became jeopardised in some parts of the country it was necessary to take vigorous action for the suppression and removal of sedition and turbulence. Now, my Lord, that this has been accomplished to a great extent, we are in a position to find out how much of this improvement was due to the Seditious Meetings Act of 1907 and the Ordinance which preceded it. Now, the Ordinance had operation only in Eastern Bengal and the Punjab, while till the 14th of January 1910 the Act never came into operation in any province except Eastern Bengal and Assam and the District of Backergunge was the only area proclaimed. My Lord, though on account of that deplorable occurrence, the murder of Mr. Jackson (a man for whom the people of Nasik entertained respect and personal regard), a notification extending the operation of the Seditious Meetings Act was issued on the date just mentioned, the general state of the country—aye, even of Eastern Bengal and Assam—had greatly improved. Speaking 11 days later on that greatly historic occasion when the newly constituted Imperial Council met for the first time, Lord Minto, towards the close of his speech welcoming them, said: 'But, gentlemen, though I have no wish to disguise from you the anxieties of the moment, I do not for an instant admit that the necessity of ruthlessly eradicating a great evil from our midst should throw more than a passing shadow over the general political situation in India. I believe that situation to be better than it was five years ago.'

"Except a few districts in Eastern Bengal and Assam and one district in the Punjab, no area was proclaimed. In Bombay the notification putting the Act into operation has been withdrawn. It is allowed on all hands that the general situation during the last twelve months has greatly improved still further. But this result cannot be claimed to be due to the Act as it existed only on paper in all except four or five districts. The Local Governments had to take action for checking sedition and unruliness; but this was done by putting in force the powers which exist under the Criminal Procedure Code, the Police Laws and the Penal Code. I do not wish to state over again what I pointed out to this Council in some detail in August last when the Continuing Bill was under consideration. I then showed how by instituting proceedings under these laws not only were offenders brought to punishment, but meetings considered improper were prohibited and associations deemed undesirable dissolved. In other words, the condition of things which this measure and its predecessor the Act of 1907 aim to establish was established in most provinces and districts with the help of the general law only. This result was in no small measure facilitated by the action of the Government in introducing its beneficent measures of reform. In the case of numerous persons the apparent proneness to listen to the extremist propaganda was due to the despair they felt of obtaining a consideration of the legitimate demands of the people. This attitude of mind is of course not defensible. But the point to note is that immediately the reform proposals came within sight of fruition the bulk of the persons whose attitude had



generated doubts in the minds of the authorities about their loyalty resumed their normal relations with the Government and local officers.

"My Lord, it is not fair to the Government or to the people as a whole to attribute to the Act of 1907 a merit and efficacy which cannot be justly claimed for it. We want peace and quiet and order. We want that the relations between the people and the representatives of Government—Imperial, Provincial and Local—should be not only smooth but cordial and animated by mutual respect and confidence. Abnormal developments did threaten these at one time. Fortunately the disturbing factors have to a large extent been brought under control. My honest conviction is that the restoration of normal relations is due not to the special law of 1907 but to a number of causes not the least potent of which are the Reform measure and the gradual development of a sympathetic policy during the last four years.

"My Lord, this Bill, to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of the public tranquillity, is, after all the work that England has done in India, a slur as much upon the Government as upon the people. Even as a temporary measure it would have created an entirely wrong and unjustifiable impression about both. As a permanent addition to our Statute-book it must be ever a source of pain and humiliation to us. I deprecate this legislation and would ask Government to desist even at this hour and to let the world know that the British Government can maintain its faith in the ordinary law even though a few mad men may be causing disturbance.

"My Lord, this is how I feel on the question of principle. I recognise, however, the peculiar position of the British Government in India. I also realise that the activities of the revolutionary party, though largely suppressed, have not completely ceased. We cannot shut out from ourselves the possibility of the flame blazing up again. And though I think that the ordinary law is quite powerful enough to put it down, I would acquiesce in the maintenance of a law like that proposed for a few years as a further precautionary measure. In three or four years, my Lord, even such tension as exists may have disappeared, and nobody will then feel the need of a Seditious Meetings Act."

The Hon'ble MR. DADABHOY: "My Lord, the Bill before us is a considerable improvement upon the existing Act. Important modifications have been made in the language, with the result that most of the arguments advanced against it in 1907 and 1910 have become pointless. Almost all the objectionable features have been removed, we all believe, under the beneficent influence of Your Excellency. I for one do not doubt that, were it advantageous, the measure would have undergone still greater change for the better. The Bill, as it now stands, is much milder than the Act it is intended to replace. Substantial concessions have been made to popular opinion; safeguards against oppressive enforcement of the Act have been provided. These facts compel our support to the Bill. The deference shown to public opinion by Government now is an earnest of that policy of conciliation and sympathy which Your Excellency has so generously promised to follow in the administration of this country.

"These are considerations which have influenced my decision on this occasion, and have induced me to support the Bill. My Lord, it is not with a light heart that I have approached the subject. The possibility of Government bringing forward a fresh Seditious Meetings Bill during this session has inspired in me many an anxious thought as to the course I should adopt in the emergency. The Act, as it now stands, has very little to recommend it. It gives to the police arbitrary and unlimited powers of interference with the freedom of speech which is one of the elementary rights of British citizenship, and which we all value. Had I therefore been in Council in 1907 and had not sickness prevented me from attending the session at Simla in 1910, I could not but have opposed it. But the transformation it has undergone in Your Excellency's careful hands has agreeably surprised the country, and I do not feel myself free to persist in an opposition which, bating the question of

permanency, has become groundless in the altered circumstances, and which, to my mind, will be an ungenerous response to the Government's spirit of conciliation.

"My Lord, notwithstanding commendable improvement, the Bill has one disagreeable feature absent from the existing Act. There is much to be said for the view that such a restrictive measure should not have a permanent place on the Statute-book. I am not sure that the proposal will command the support of many people otherwise willing to co-operate with Government even in the matter of repressive legislation. I myself have accepted the change with some hesitation. The necessity is not obvious. But two considerations have persuaded me to support the proposal. I have been impressed with the fact that legislation, meant only for a small section of irreconcilable citizens, should not be allowed to shock periodically the susceptibilities of that large body of loyal Indians who, with their tropical emotionalism, are apt to take a wrong perspective of the situation and to suspect that their cherished rights are being filched by an unsympathetic Government. It has been pointed out repeatedly that the very existence of even such a stringent Act as the Seditious Meetings Act of 1907 has been a matter of historical research to the few and of blissful ignorance to many. The proposed law is still less likely to be brought into prominence by frequent use. Far better therefore it should be enacted once for all and be relegated to its deserved obscurity than that the reminiscence of an unpleasant severity should be kept alive among law-abiding people by repeated debates on it in Council. Another consideration, not less weighty, is that Government appears to be in possession of information, of which reasons of State preclude publication, which counsels the course Government has taken. Would it be prudent to treat the assurance cavalierly? I do not think there is any occasion for suspecting the motives of Government or for impeaching the soundness of their conclusions. The atmosphere is not entirely free from electricity, and a Government headed by a Proconsul of Your Excellency's broad sympathies and unfaltering liberalism may be trusted with some extraordinary powers.

"My Lord, one other point demands examination. It may be frankly admitted that the Bill is not defensible on principle. It does restrict, in however small a degree, the liberty of the subject; it militates against theoretical ideas of free citizenship inseparably associated with British rule. It cannot therefore evoke enthusiastic support even from the most indiscriminating admirer of Government. But the exigencies of the situation make even the theoretical abandonment of a valued right desirable. It is eminently a question of administrative convenience—a balancing of advantages and disadvantages. The work of administration leaves no room for legislation in pursuit of principle without regard to facts. The end has at times to be allowed to justify the means. Government cannot be expected to subordinate legislation to an abstract principle, and in face of danger to surrender their judgment to it. Principle, all-important on ordinary occasions, loses much of its force in extraordinary emergencies. Whether the present is an emergency of that imperative kind, is a question of fact on which opinion is undoubtedly divided; and, personally speaking, I am disposed to accept Government statement on trust. I accordingly support the Bill, but not without sorrow, which must be shared by the whole Council, that the very first important legislation after a change in the personnel of Government should be of a restrictive character.

"My Lord, I wish to make my position clear. I support this Bill because Government have modified and softened it; I support it because Government have endeavoured to conciliate the public and respect public opinion; I support it because it will to some extent mitigate the evil which we are all anxious to guard against; I support it because the Bill in its present form does not arbitrarily restrict an important public right; I support it because it does not unduly interfere with public liberty or with the valued privilege of constitutional agitation; and finally, I support it as I feel that our co-operation at the commencement of Your Excellency's rule will materially help the great work of conciliation and good and sympathetic government which Your Excellency has so nobly undertaken."



The Hon'ble SIR SASSOON DAVID : " My Lord, I have no hesitation in according my support to this Bill. The decision of Government of not continuing or making permanent the existing Act which was passed in 1907 and in introducing the Bill in its present form is very wise. No doubt, there was some heartburning over the old Act, and Government have acted in consonance with public wishes in dispensing with it. I do not wish to take up the time of the Council with any lengthy remarks on the subject, as the Hon'ble Mover has explained fully the modifications made in this Bill when introducing the Bill. In my opinion the new Bill is entirely harmless and will not tend to cause any inconvenience to speak of to the general public. All the objectionable features of the old Act about which there was so much discussion in the old Council have been wisely removed from this Bill, and I do not think anybody could have any serious opposition to the Bill as it is now framed. I think it is right and proper that all the unofficial Members of this Council should give their unqualified support to Government to place the Bill in its present modified form on the Statute-book. I feel quite sure that anybody giving a small thought to the Bill will come to the conclusion that there is nothing in the Bill which an honest citizen may fear, or there is anything formidable in the Bill which might be put into operation at the cost of any loyal subject. I shall therefore give my whole-hearted support to this Bill, and trust that this new measure once for all will set at rest criticism and discussion which have been so numerous during the last four years. My Lord, I support the Bill because I firmly believe that dacoities, assassinations and mischievous machinations of secret societies will be prevented by this Bill without in any way interfering with our healthy political activities. The new Act when it comes in operation will not interfere with honest, well-conducted meetings. It will have the effect of preventing and suppressing only such meetings whose main object is to cause breach of public peace and tranquillity."

The Hon'ble MR. CHITNAVIS : " My Lord, I feel I should not give a silent vote on an important measure like this. The situation appears to be delicate. The Local Governments are unanimously of opinion that the present Act should be maintained. We can understand it is difficult for the Supreme Government to brush aside such weighty opinions and to drop the law altogether. It is a great thing that they have, of their own motion and practically against the wishes of Provincial Governments, recast the Act in such a way as to make it harmless. We appreciate and admire the action, and I think Government can fairly expect support from us after all they have done to conciliate public opinion. I feel further that a non-official Member incurs a serious responsibility in moving for the repeal of a measure demanded by all the Local Governments. The Government of India have evinced a genuine desire for the advancement of the political interests of the people; they have been responsive to their wishes. After all that it would not question their judgment. The majority of the non-official Members too appear to admit the necessity of the measure. The Select Committee's Report makes this clear. The principal controversial point is the length of time during which the law should be in operation; but that is after all a matter of detail. If the situation improves, judging from their conciliatory spirit, I have fervent hope Government will themselves rescind the law.

" Every State has its laws against treason as distinguished from ordinary crime, and Government will be failing in their duty if, on the reports of their own responsible officers and their own knowledge of the past, they do not take time by the forelock and take steps to prevent a repetition of the disgraceful scenes of 1907 with all their dangerous consequences."

The Hon'ble SIR RANBIR SINGH OF PATIALA : " My Lord, it is nearly after eight months that the Bill for the prevention of holding seditious meetings in India has again been brought up before the Council for a discussion as it was then announced by the Home Member in charge of the Bill.

" The object of the Bill is simply to preserve law and order in the country, and I believe that this object has been gained to a certain extent. It is, as was justly said by the Lieutenant-Governor of the Punjab in August last, only to

divert public actions and public movements from channels which can only result in widespread disaster and misfortune. Such an Act under the circumstances which have of late prevailed in the country should be taken as wholesome by all the law-abiding people. It is an admitted fact that this Bill has greatly improved the condition of the country since 1907, and I am rather afraid to hold that such a successful measure should be dropped at a time when it is just possible that by dropping it the same unpleasant things may happen again. Let us hope that this will never happen again, but prevention is always better than cure. This is an administrative question, and not a question of imposing fresh taxes the inadvisability of which could be proved by quoting figures of the past years. This is a question on which depends the future peace of the country and I think it should be differently considered. The above is a general view of the situation; but I am strongly of opinion that the case of each province should be separately dealt with and that the Imperial Government may be mainly guided by the proposals of the heads of the Local Governments on the subject as they alone can realise the position prevailing in their respective provinces.

"As a whole, I support the Bill with such alterations as the Imperial Government may, in consultation with the Local Governments, find necessary for the prevention of the spread of the malady in future."

The Hon'ble SARDAR PARTAB SINGH: "My Lord, the Bill which is to-day before the Council is an administrative measure of importance and I am sure that Government, in bringing this Bill up before the Council, feel it also that this measure they would rather not have passed but circumstances are such that the existence of such a measure became absolutely necessary. The new law which is to-day before the Council is deprived of all the objectionable features that the old Act contained, and I think it only right on the part of the non-official Members of this Council that when Your Excellency's Government has done so much in deference to public opinion in modifying this Act, we should give our loyal support to the measure. The difference of opinion only seems to be on the point that on one side it is urged that the measure should be passed for a certain period, while it is urged on the side of Government that the measure should be permanently brought on to the Statute-book. My Lord, expressing my humble opinion as a private individual, I would say that Government are in a better position than we are to judge what is necessary in this case; but I cannot refrain from expressing one wish, and that is that I sincerely and earnestly hope that, as it has been urged in this Council to-day that the situation in this country is improving, that it may go on improving and that a few years hence (a Government which can pass an Act can also repeal it) we may be able to prove to Your Excellency that the situation is such that the existence of such an Act is no longer necessary, and I am sure that Government will then only be too glad to meet us half way. With these few words, my Lord, I support it."

The Hon'ble Lieutenant MALIK UMAR HYAT KHAN: "My Lord, I particularly want to speak on this Bill, as I am not only a supporter of it now, but have often impressed upon Government the urgent necessity of measures like the Seditious Meetings and Press Acts.

"It is now more than four years since I first spoke to Lord Minto about the immediate necessity of such an Act. And it is a curious coincidence that the time when I first urged the necessity of such legislation is the same as the present. His Honour the Lieutenant-Governor of Bengal has pointed out in his letter to the Government of India, dated 9th January last, in which he says that 'there is no doubt that the growth of violence and the spread of sedition in Bengal would have been very different if the various measures that have been passed in the last four years, culminating in the Press Act, I of 1910, had been in force in 1905 and 1906.' But, my Lord, as at that time no anarchical crime had been actually committed and it was difficult to make out a case to justify such legislation, it was only after the lives of many public servants had been sacrificed on the altar of hesitation that Government at length was persuaded to bring in the Seditious Meetings Act and Press Act. Unfortunately, however, the Seditious Meetings Act was not a permanent legislative



measure, but was limited by a period of time, so that when that period expired and anarchy was still found to be rampant, it had to be renewed in the face of much hostile criticism and irritation. On the last occasion on which this Seditious Meetings Act was discussed at Simla, I again pressed that it should be given a permanent place in the Statute-book, pointing out the undesirability of renewing such an Act at frequent intervals, and urging, as others besides myself had so often urged before, that it oppresses and hits no one except the enemies of law and order. I am glad to find now that all Governors, Lieutenant-Governors and others who have expressed their opinions in their letters to the Government of India on the subject are unanimously of the same opinion.

“ My principal object in thinking of speaking on this Bill at its introduction was to emphasise the point that if it was attempted to check violent and seditious evil-doing by methods of weakness and a policy of conciliation, it would fail. Evil-doing, my Lord, will not be checked by weak and spasmodic efforts or by methods of reconciliation. A firm policy, and no vacillation in carrying it out, is necessary to kill the evil and keep it dead. It is useless to pass an Act dealing with sedition at one moment, and at the next to release men deported out of India for this very crime, in the hope that it will conciliate. No one is reconciled, but Government suffers in prestige and its action is ascribed to weakness or fear. My Lord, exactly the same thing has happened to this Bill, which has been rendered weak simply with a view to bring about a compromise.

“ I assure you, my Lord, that the vast majority of His Majesty's Indian subjects are loyal and would have welcomed a stronger legislation steadily pursued. But I am glad that, though weak, it will find a permanent place in the Statute-book. Indians will have no fear for a law which passes by the loyal and law-abiding but strikes at the murderer and anarchist and at those who are worse than they—that minute section of the public which, through the Press and seditious meetings, instigate murder and anarchy.

“ Let me here state my hope, my Lord, that this Council no longer holds those who believe or, at any rate, who will argue in public that such legislation is unjust and unjustifiable; for whatever their intentions may be, their action in resisting such a measure cannot but be interpreted by the masses as an indication towards encouragement.

“ My Lord, as my province has got a martial spirit and a large portion of the army is recruited from it, a preventive measure like this may be needed for it, though actually there is very little sedition in the Punjab owing to the loyalty of the general population.

“ Lastly, I would like one most vital point made perfectly clear, and that is this. Supposing a wandering seditious speaker visits a proclaimed area and some of the residents of the locality convene a meeting of the kind mentioned in section 4 of this Bill with a view to enable him to speak; but before he has been able to attend the meeting, it is dispersed by the police as an unlawful assembly. Shall such a man be liable to the penalty provided in section 6 (1) of this Bill, or not? I have asked this question because such a man will not be punishable under section 7 of this Bill, so far as that particular meeting is concerned, nor apparently under section 6, unless a separate provision is made for such cases. But if such a man, who is the whole and sole cause of the trouble, cannot be punished under this Bill, it will be concluded that such a case has not been considered.

“ My Lord, if my suggestion may not be accepted, I am so anxious for the passing of this Bill that I give it my whole-hearted support and urge that it may be passed into law.”

The Hon'ble MAHARAJADHIRAJA BAHADUR of Burdwan: “ As I do not wish to give a silent support to the Bill about to be passed into law to-day, I rise to make a few observations. The other day the Hon'ble the Home Member when introducing this Bill, as well as in the Select Committee the Hon'ble Law

Member in discussing it, tried to impress on our minds that one of the chief reasons for retaining this piece of legislation was that during the past three years, though only a few areas had been proclaimed under the Seditious Meetings Act, the anarchical movement had continued to exist and that only the other day two abhorring incidents had taken place in Calcutta. Now, my Lord, if I thought that this enactment was intended to combat with anarchism directly, I would have opposed it on the ground that it did not, in fact could not, touch those misguided men who had taken recourse to violence and lawlessness in advocating sedition in the country and in trying to bring British rule into contempt in India, and that, therefore, to say that because anarchism was still rampant we should have this Bill, would have been an argument which certainly would not have appeared convincing to me. But the reasons that enable me to lend my support to this measure are chiefly two.

"Firstly, as there are and will always be highly imaginative and emotional minds in this country, who might, if allowed too much liberty of speech, within proclaimed areas, create disturbances or ill-feeling, it is desirable to keep a healthy check over them, and I admit that the Bill will certainly do this.

"Secondly, I agree with the much-maligned Eastern Bengal and Assam Government in thinking 'that the better the public feeling becomes and the less likely the people are to be influenced by the malicious speeches of mischievous persons, the less necessary it is to impose a check; but whilst the power to control meetings should be used as sparingly as possible, the power itself should be retained both as a warning to the seditious-minded and as a check ready to be applied should the occasion again arise.'

"Admitting all these, however, my Lord, I feel I would be failing in my duty as a well-wisher of the State and a Member of this Council if I did not point out to Your Lordship that the Government could have had the solid vote of the non-official Members of this Council had the measure been proposed as a temporary one for five or seven years.

"I entirely agree with my esteemed friends Mr. Slacke and Rai Bahadur Kisorilal Goswami, Members of the Bengal Executive Council, when they say that 'the educated classes would at present regard the permanent imposition of the Act as a perpetual stigma which would tend to estrange from Government the feelings of the moderately inclined.' What I further feel is that the real moderate constitutional agitators whose opinions are healthy and of value to the Government and the people alone will be the real sufferers in a proclaimed area under the provisions of this Bill, and not those seditious minds who always by their craftiness can meet and discuss their wicked doctrines without coming into the clutches of the law.

"My Lord, if Your Excellency agrees with the Bombay Government in thinking that 'on general grounds it is better to retain on the Statute-book an Act of this kind which is already there rather than in times of emergency or excitement to resort to exceptional legislation,' and if Your Lordship is pleased to graciously assure in a few kind words that the Governor General in Council will enforce the provisions of this Act with the utmost caution and consideration, I for one, on general grounds, will not oppose its becoming a permanent enactment, though I feel, and will continue to do so, that the Act will be a stigma to the moderates who have in recent times so markedly rallied round the Government in the cause of law and order and general advancement of the mother land, and that they are resenting it only for the above reason, and will continue to feel deeply the humiliation which will be theirs and theirs alone by an Act of this kind remaining permanently on the Statute-book.

"With these remarks, my Lord, I beg to support the motion now before the Council."

The Hon'ble MR. MAZHARUL HAQUE: "When the present Act came on for discussion last August in Simla, I opposed it strongly but was careful to tell the Council that I did so reluctantly. If I rise to-day to offer some observations on the principle of the present Bill, I do so still more reluctantly. I am anxious



that not one sentence, not one word, should pass my lips which could in any way be construed into a desire on my part to embarrass Your Excellency's Government in any way. Your Excellency has just assumed the reigns of your high office, and it would be disastrous to the best interests of India if a hopeful and sympathetic administration was in the very beginning handicapped by hostile and fruitless criticism. The duties of the non-official Members of this Council lie not in obstructing and embarrassing the Government but in impressing upon them the views, opinions and feelings of the people, in helping them with advice and in offering them their hearty and sincere co-operation. Sometimes we are compelled by a sense of duty to disagree with Government proposals, but no offence need be taken at this, as none is meant.

"My Lord, the Seditious Meetings Act was passed at a time when the country was in a state of unhealthy excitement, sedition was being openly preached in some parts of the country, and we were not sure what turn all this agitation would take and where it would land the people and the Government. The circumstances were exceptional and abnormal and required exceptional and abnormal treatment. The Government could not allow the campaign of calumny and sedition to go on unchecked, and the present Act was placed on the Statute-book of the country. There may be differences of opinion as to the unnecessary severity of this particular measure, but there could hardly be any disagreement as to the necessity of controlling the wild and mischievous utterances of some people. I personally believe that if the powers given to the police and the magistracy by the Code of Criminal Procedure were vigorously and vigilantly applied, sedition would have been nipped in the bud and resort to repressive legislation would have been avoided. However, there is no use in regretting over lost opportunities. The Act was passed in all its rigor, but its operation was limited to a period of three years only. Later on a new lease of life was given which will expire on the 31st of this month. If we compare the condition of the country at the time when this Act was passed with the present, it cannot be denied that there is no resemblance between the two. Now the country has settled down to its normal conditions and assumed its usual peaceful aspect. The Hon'ble the Home Member has assured us that there is still a revolutionary party working in secret and trying to do incalculable mischief to the country. Well, we have to regretfully admit that there are some miscreants still left who are plotting murders and assassinations, but to describe them as a revolutionary party is to give them an entirely fictitious importance and at the same time to alarm the people unnecessarily. They are a class apart—a class of criminals who should be dealt with separately as such. I do not think that it will be seriously contended that the present Bill will at all touch this class. Murderers and dacoits do not hatch their plots at public meetings.

"My Lord, it is claimed by the Local Governments and the supporters of this Bill that the Seditious Meetings Act has been largely instrumental in bringing the country to its present normal condition. Well, I have my own doubts about it. I do not say that it has done no good at all. No, perhaps, it has to a certain extent contributed to the peace and quiet which now prevails; but I firmly believe that it is the good sense of the people themselves which has been the chief cause of these desirable results. The horror and indignation felt at the so-called political assassinations, dacoities committed by the youths of gentle blood and good position, outrages perpetrated by fanatics and lunatics, have brought about the inevitable reaction and opened the eyes of the community to the baneful consequences of a mischievous propaganda. Nobody can deny the deterrent effect of a penal law, but to ascribe to it the general tranquillity of a whole people is rather going too far. However mild a repressive measure may be, it cannot but affect the legitimate activities of the people. The strongest objection that is taken, and rightly taken, to such legislation is that for the sins of a few guilty men many innocent persons are made to suffer. The natural result is that discontent enlarges its army, new adherents are recruited, seditionists are jubilant, loyalists are disheartened and the law defeats its own object. The discontent may not be loud and vociferous, but it is there, silently brooding and cogitating, and therefore much more dangerous than ever.

"My Lord, it must have struck many people as it has struck me that the anarchists and the seditionists do not like these repressive measures to be repealed. They know that the moment repression ceases their game is up and they cannot play upon the feelings of those who get into their meshes and become their tools. Otherwise there is no accounting for certain incidents that have recently occurred in this country. Last year a distinguished Police-officer was murdered on the very eve of the opening of this reformed Council. This year two outrages have been committed just when it was known that certain concessions were in contemplation on this very subject that we are discussing to-day. I cannot help thinking that such psychological moments were selected with the deliberate intention of withdrawing the sympathy of the Government from the people, and I submit that the Government ought not to have considered this aspect of the question before embarking on this repressive legislation.

"My Lord, it is said that this law may not touch the anarchists, but it will prevent further recruitment to their ranks. Apparently the argument seems to be plausible and of some cogency, but it is difficult to believe that law-abiding citizens can be converted into criminals at public meetings. Such conversions can only be effected in great secrecy and with great caution and care so that the conspirators may not be found out. Youths of immature intelligence and weak intellect are got hold of in out-of-the-way places and made the tools of the anarchists in carrying out their nefarious designs. Proscribing public meetings could hardly achieve the object in view.

"My Lord, it has become a fashion in these days to laugh and sneer at the great principles of liberal politics. The moment we refer to the natural rights of man and the privilege of public speaking, we are dubbed as doctrinaires, idealists, sentimentalists and what not. Well, to escape these epithets—although I myself do not mind them much—I will refrain from alluding to these noble principles of liberty and justice; but I would request the Government to remember that it is the British nation which has initiated us in these ideas. They are now ingrained in our nature and due regard should be paid to them in all legislation which is proposed for the country. Sentiments play a most important part in the economy of human life and to ignore them in the solution of political problems is not sound statesmanship. I doubt whether we would be entitled to call ourselves human beings if we had no sentiments.

"My Lord, such repressive laws are apt to interfere with and paralyze the lawful and legitimate activities of a growing nation, the fostering and advancement of which should be the special care of the Government. They deaden public life and bring about an inertia which seriously retards the progress of the country. The unmerited slur and indignity of living under special penal legislation is another factor which ought not to be lost sight of.

"These are some of my objections to the principle of this Bill, but in spite of them I would not have opposed the introduction of the present measure if the Government had seen their way to accept our suggestion and following the former precedent restricted the operation of the Act to a limited period. This would have been the basis of a very fair compromise. But the Government have refused to accede to our request and we are compelled to record our disagreement. The reason given for this law to be made permanent is, that it is undesirable to run the gauntlet of agitation at short intervals and at every time when it is considered necessary to renew it. I am afraid that the Government have not yet properly measured the strength of the feeling in the country against this measure. In my humble opinion they are adding one more string to the bow of the agitator. Instead of periodic agitation they are inviting perennial and perpetual agitation. I am convinced that no section of the Indian people is going to relapse any more into undesirable agitation. They have done with that sort of thing for good, and the present Bill ought not to be extended to a period greater than what is considered to be absolutely necessary. It would be a graceful concession to public opinion and would reconcile the people to the enactment of a law which they do not like.

"My Lord, before I sit down I should like to correct certain misrepresentations that are being sedulously spread in some quarters to the effect that the



alterations made in the Bill are of no consequence. The other day I read in the columns of an Anglo-Indian journal that the concessions were of no great importance. My Lord, such writings create much greater mischief than the law itself. The general public take the law not from the provisions of the Act but from the comments and criticisms of the daily Press. Who cares to compare the sections of the existing Act with the clauses of the proposed Bill? My Lord, it is not true to say that the alterations are of no great importance. Indeed, they are so radically different in their scope and nature that the present Bill has become comparatively harmless in its effect. A large majority of the most objectionable features of the law has been entirely eliminated. What is left, apart from the general objections to the principle of the Bill, is of the mildest possible character. My Lord, it is unjust to Your Excellency and Your Excellency's Government to say that the Bill before this Council is as objectionable as the Act in force. Who can after a comparison of the two measures honestly deny that the Bill discloses a sincere anxiety on the part of Your Lordship's Government to present the law in the least unpalatable and most acceptable form and to restore and safeguard many of the lost liberties of the people? I have considered it necessary to expose this irresponsible and mischievous criticism at the earliest opportunity so that it may not have sufficient time to spread and embitter the minds of the people against the Government. My Lord, I gratefully acknowledge that the Bill which has been presented to the Council by the Hon'ble the Home Member is very mild in nature, and I also vouch for those whom I have the honour to represent here that they are extremely thankful to Your Lordship for this generous concession.

"My Lord, I conclude with the hope that the Government will never find any occasion for using this weapon which they have forged for themselves and that it will rust and be forgotten in their armoury. To my own countrymen I say, do not give an opportunity to the Government to use it; I have an undying faith in the policy of conciliation and co-operation, so that all classes and communities of my country, united and strong, in comradeship and under the guidance of a great British nation, may march forward on the high road of civilisation and fulfil their great destiny."

The Hon'ble Babu BHUPENDRA NATH BASU : "My Lord, I ask Your Lordship's indulgence on this occasion to address a few words on the Bill now for consideration before us, and in doing so, having regard to the seriousness of the situation and the difficulty of my position as a representative of the middle classes of Bengal, which province unhappily, I am afraid, to some extent at least contributed to the enactment of the measure originally, I shall not say a word which may be productive of the slightest mischief. I do not propose on the present occasion to offer any detailed criticism on the Bill before the Council. All that could be urged against the measure has been very forcibly urged on the two occasions that the Bill came up for discussion. It was at one time thought desirable to place before Your Lordship a *resumé* of the arguments that had been put forward against the provisions of the enactment that is now expiring; but I take it, my Lord, that in a question of such great moment, everything that can be said for or against the Bill has been carefully weighed by Your Lordship, and it would be an unnecessary task on my part to go over ground which has already been traversed. Speaking from my place in Your Lordship's Council, not only to the Council itself, but to my countrymen outside, I believe my countrymen will understand me when, for reasons so obvious, I abstain on the present occasion from entering into a discussion which after all would be fruitless and would revive memories which are expiring. I acknowledge very readily that some of the more objectionable features of the present law have been removed. There has been provided a check that no area shall be placed under proclamation without the sanction of the Supreme Government. My Lord, I do not think I should be justified in saying that much value is not attached to that check, but at the same time the Government of India will pardon me if I say that that check may not be after all a very effective check. A strong Local Administration either in a moment of panic or under pressure puts forward a request before the Supreme Government of placing a small area or a particular area under it under proclamation

under this Act. It would be, I take it, assuming a very onerous responsibility on the part of the Supreme Government to refuse this request, and therefore, though we feel that the Local Government will hesitate until it is satisfied in its own mind that it can make out a strong case to place a request before the Supreme Government, and to that extent the Supreme Government will be a check upon the action of the Local Government, I do not think that that check will be of any further use except as an indirect weight upon the mind of the Local Government not to go up to the Supreme Government unless it was in a position to make out a good case. Then, my Lord, another objectionable feature has been removed. Under the law as it stands any assembly of twenty men for the discussion of a political subject would be deemed to be a public meeting under the Act. Much controversy centred round that provision and we are glad that that has been taken away. Rumour has been busy as to the hand which has removed that obnoxious provision, and we, my Lord, the non-official Members of Your Excellency's Council, beg to offer Your Excellency our humble but sincere thanks for the removal of that clause by Your Excellency. But though the Bill has been deprived of its objectionable features,—some of them, not all,—the question yet remains—the question of questions in a consideration of a measure like this : ‘Is the law necessary?’ That, my Lord, I think should be carefully considered free from passion and from prejudice. The Hon’ble Home Member in a speech of studied moderation has himself admitted that a great change for the better has come over the country. My Lord, during the last few days the sympathetic attitude which the official Members of the Supreme Governments have taken towards many of the grievances which we have placed before the Government is a sure indication that there is even in Government circles a sincere desire to meet the people as far as it may. It shows, my Lord, that the Government is prepared, is ready and willing to concede what is just and fair ; that it is ready and willing to re-examine, if necessary, the conditions of the creed upon which the government of the country rests ; and we, on our part, my Lord, have not been slow in appreciating this immense change in the attitude of Government officials towards us and our aspirations, because this change to us means so much. We trust, my Lord, officials and non-officials alike, that the sharp line of division which has hitherto separated us is rapidly losing its distinctive features, and that British rule in India will be consonant to national ideals and will be consistent—and therein I lay some stress, that it will be consistent—with the national self-respect of the Indian people. Therefore, my Lord, we feel specially grieved, having regard to the improvement in the situation of the country and having regard to the well-defined and well-expressed attitude of Government towards us, that a measure fraught with bitter memories should be revived, and not only revived, but placed on a permanent footing on the Statute-book.

“ My Hon’ble friend the Home Member has referred to the seditious propaganda of 1905 and the years following in the province of Bengal and elsewhere. I can speak of Bengal with some degree of knowledge ; none more than we, my Lord, the great mass of the Bengali people who, though put to the severest strain, have stood resolutely firm by our Indian ideals of loyalty to British rule in India as the only means of India’s salvation, as the only guarantee of India’s progress in order and peace ; none more than we have regretted the mad and criminal enterprise of those who have led youths into error and to ruin. But, my Lord, it may be permissible on this occasion to say—and I say so with great respect—that circumstances had arisen, for which the Government and its officials may be held in some degree at least responsible, to create a state of feeling in the country which made the work of the seditionists and anarchists easy. To-day, my Lord, when we have agreed to bury the hatchet, I shall not refer to those circumstances. They will only revive painful memories. No Bengali, my Lord, can speak of them with sufficient self-control, and I shall not try the experiment. No Bengali can look back upon them except with the deepest emotion. The memory of those bitter days which hung like a cloud upon my province, the fairest in all India, is slowly fading, and though Bengal will nurse a sorrow too deep for tears, she hopes that her lot will be less hard in time to come than in days gone by. My Lord, it will not be altogether amiss



if, with Your Lordship's permission, I crave leave to say that the Act, such as it is—it will be an Act very soon—will not serve the purpose for which it is intended, *viz.*, to stop the spread of seditious propaganda. No doubt, it will stop the spread of such propaganda through public meetings, but that object can be as easily and effectively secured under the existing criminal law of the country which can both prevent the offence and punish the offender. I am speaking, my Lord, in the presence of the learned Advocate General of my province and also of one who was until lately its Standing Counsel, and I speak with a great degree of caution on this subject. You have ample powers under section 107 of the Criminal Procedure Code of India to bind down any obnoxious persons, and those madmen—I shall not call them by any harsher name—who with unparalleled considerateness have been referred to by the Hon'ble the Home Member as 'gentlemen who had gone down to East Bengal in 1905 to open a seditious campaign'—could have been easily and effectively dealt with under this section. We, who have been through all these troublous and unfortunate times on the side of Government notwithstanding our differences, have often times wondered as to why Government did not at the time take proceedings under the law as it then was. This section 107—I am sorry that I am going into technical details, but, my Lord, there may be Members in this Council who are unacquainted with the technical details of criminal administration in this country—gives you the power to bind down any person who has proved by his past conduct that he is dangerous to the community. This is a preventive measure. There is another preventive measure—section 144 of the Criminal Procedure Code—which gives to a Magistrate full powers to prohibit public meetings in any particular area for a certain definite period. The Magistrate only exercises judicial discretion upon information laid before him by responsible executive officers, and people are content, so long as it is not an executive order that they have got to obey.

"So far as I am concerned, my Lord, and I have read the provisions of the Bill very carefully, what more is sought to be attained, to be achieved by the present legislation, I fail to see. Secret organisations, the most ardent supporters of this measure, including my friend the Hon'ble Mr. Dadabhoy, will admit that it cannot touch. In fact, our greatest trouble has arisen since the Ordinance and Act of 1907. The Act has been in operation for the last three years and more. If the Act, my Lord, had helped in arresting the hand of a single assassin, if the Act had helped in the remotest degree in enabling the authorities to trace the anarchists to their lairs, then certainly, my Lord, I would have been the first and foremost to welcome the measure. But in this it has failed, as it was bound to fail; it has only given one more weapon to the irreconcilable, adding to his armoury a fresh indictment against the Government. It has only rendered the path of the anarchist easier, for his victims—those unhappy youths who know not what they do—will no longer be attracted to public meetings, where everything has to be conducted before the public gaze and in the light of day, for public meetings will cease to be; and while it has done all this, it has not forwarded the cause of justice. So far as it has helped in any way towards the maintenance of peace and order, it has achieved nothing which the ordinary law could not have done, and it was admittedly put into operation only in four or five districts though the improvement in the situation is general throughout the country; and while its efficacy is so questionable, its potency for mischief is unquestionable. In Eastern Bengal and Assam the annual District Conferences were stopped, though every guarantee was offered for their peaceful character, and a largely organised meeting in Tangail in the Mymensingh District for the elevation of the depressed classes was stopped, leading to a stoppage of similar meetings in the rest of the province. Is it, my Lord—I am dwelling on the potential mischief of the measure, I have shown that mischief has actually resulted in some instances—is it too much to assume, or rather is it impossible to assume, that the Government may introduce an unpopular measure in any particular area, and it may—I do not for a moment say that it will—put that area under proclamation? My Lord, a strong Lieutenant-Governor of Bengal, with the support of the Government of Lord Lansdowne, without any previous intimation to the public so far as we knew, published a notification curtailing

the right of trial by jury in Bengal. There was a tremendous agitation in which happily the European and the Indian joined, with the result that that notification was very promptly withdrawn. Would it be too much to suppose that if the Lieutenant-Governor of Bengal at the time who was noted to be a very strong man, with very strong likes and dislikes, and who had issued a circular, because he was dissatisfied with acquittals in criminal cases, to his subordinate magistracy that somebody must be punished for the day's work, whether he was guilty or not (that is my own interpretation that I put; the language was that somebody must be punished for the day's work) would it be too much to assume that he might have put Bengal under the operation of this Act at that time, getting over on his side the assent of the Supreme Government, which was not then unhappily a very strong Government in the country? And sometimes, my Lord, may it not happen that the Supreme Government would itself introduce a measure into a province which would be unpopular, and what would be the check on the action of the Local Government in getting the sanction of the Supreme Government to put such an area under proclamation? Would it be a very large assumption to say that in 1905, when the partition of Bengal was carried out, a similar proclamation might not have been issued, and the public would have remained in ignorance of the feeling of Bengal on that question? But that is a point which I shall not dwell upon at greater length. I shall assume, readily concede, that it will not be easy for any Government, Supreme or Local, to pass a measure and at the same time to stop the expression of public opinion until that opinion has run into channels which may lead it to danger. But although I say, my Lord, humbly and respectfully, that, hedged in as the law is, it is not without its dangers—danger to the people that it may prevent the expression of popular opinion, and danger to Government itself that it may remain in ignorance of popular feeling; and, while its danger is great, its usefulness is not much. There is another aspect of the question which should not be overlooked. If, after a century, in my province, my Lord, a century and a half of British rule, it should be found necessary to curtail in India the inalienable rights of the British citizen to express his free opinion in public meetings, what does it come to? Is it not tantamount to a confession of failure of British methods of administration? Does it not amount to the casting of a slur—the greatest slur that could be cast—upon a loyal people, upon an entire community, and should the whole country suffer for the misguided actions of a few? I am sure no British statesman would admit the validity of an argument like this.

“Therefore, my Lord, in all humility and with all respect I submit that the present Act may be allowed to die a natural death; that the country should be allowed to resume its normal conditions under normal circumstances, and that a thorn in the flesh of the body politic which may retard the process should be removed. I am quite sure the Government would have no cause to regret the decision if it came to a conclusion like this, if it came to the conclusion to let bygones be bygones and to treat the whole thing as an evil dream that has passed away. But if this is not conceded, as I am afraid it will not be, I shall take the liberty of placing certain considerations before Your Lordship which I hope will weigh with the Government in giving this measure a short lease of life. Upon that point, my Lord, I hope we non-official Members by a large majority are agreed. I admit that there are arguments against that method, but I will very briefly place before Your Excellency and the Hon'ble the Home Member the considerations which, I think, should weigh with you in fixing a time limit to this Act. My Lord, if Your Lordship has—I am sure Your Lordship has—read the speech of Sir Harvey Adamson in introducing the Bill in 1907, and the speech of my Hon'ble friend the Home Member on the present occasion, Your Lordship will have noticed a great change. There is a strong optimistic tone throughout the speech of my Hon'ble friend which we all welcome. If the situation has so vastly improved in a period of three years—we can only judge from experience—may we not reasonably expect that in another three years the clouds which are still in the offing will completely pass away, and is it not possible to re-enact the law for three years again? That is a consideration which



I respectfully beg to urge before this Council. It may be wholly unnecessary at the end of this next period of three years. Why, then, have a permanent law of this exceptional nature? My friend the Home Member has said that the re-introduction or revival would lead to excitement again which should be avoided. I do not see that there has been any very great excitement over the present measure. One of two things will happen: if in the meantime there is such an improvement in the situation that the Government of the day may feel that it no longer requires exceptional powers, it will allow the Act to expire; if on the contrary Government does not see its way to do so, people will have become accustomed to the Act by longer experience and will hardly, if at all, offer any resistance to its re-enactment. In this view, my Lord, I am glad to find that I am supported by the Indian Member of the Executive Council of my own Government, and I take this opportunity to say from my place in this Council that the Hon'ble Mr. Goswami carries with him the esteem and regard of his country all over Bengal. I am also supported by my friend to the left, the Hon'ble Mr. Slacke; than whom at the present moment Bengal does not possess an officer more intimately acquainted with the state of affairs prevailing in the province. It is true, my Lord, that we in Bengal have not suffered to anything like the same extent as the people elsewhere, and it may be said to us, 'why then should you complain?' But that has been because our Lieutenant-Governor, whom I am glad to see present here to-day, has been pleased on all important occasions affecting the question of public meetings to take us into his confidence and to repose his trust in us; and though we have sometimes differed, we hope we have been able to maintain mutual goodwill and friendly relations. But this is merely personal; we are concerned not with our particular province for the time being, but with matters of much wider application. Would it be, my Lord, too much to ask that for the present the Bill may be enacted into law for three years only, so that Your Excellency yourself will be able to decide during your period of office as to whether the Act should be continued; and I believe I voice the sentiment of all the non-official Members present here that we shall be content at the end of these three years to leave the matter to your sole discretion. My Lord, we do not wish to raise an unnecessary controversy with Government. We oppose a Government measure only when we feel that for the sake of the great interests at stake we must. I feel that on this occasion the recent outrages have to a great extent hampered our position, though I am quite sure they have not prejudiced Your Lordship's judgment. India seems to be, my Lord, the sport of evil destiny. Whenever a serious question has to be decided, there arises a crop of these outrages. Who will tell these miscreants that their conduct makes things difficult for Government; for no Government can for a moment afford to create an impression that it is yielding to fear; and it also makes things difficult for us to feel that whatever may be our differences we must uphold the prestige and dignity of Government. We must support its honour against malevolent attacks; and if its officers are exposed to terrorisation at the hands of assassins inspired by secret organizations, we must stand by the Government even on questions where we may not agree, for differences of detail must be forgotten in the face of a common and grave emergency. I have said, my Lord, all that I need have said. I have not said much that I could have said; and I have adopted this course because the emergency to my thinking no longer exists and certainly admittedly not to the same extent as in the year 1907. I feel, my Lord, I am right in saying that you could not expect the support of our people to a measure like this after the emergency has disappeared or has ceased to be a dominating factor in our public life. I have not got the gift of prophecy, but I feel sure that in three years time existing conditions, even if they justify in official opinion the introduction of this measure, will have thoroughly changed, and Your Excellency will have the supreme satisfaction of allowing the measure, so un-British in character, to drop out of existence, to sink into oblivion, burying with it the bitter memories of the past, and we the people shall also feel a terrible load lifted from us, and a stigma removed from the fair fame of our country. That this may be so is my humble and earnest prayer; and even if I am like a sparrow alone on the housetop, is it too much to hope that my prayer will be heard?"

The Hon'ble RAJA OF DIGHAPATIA: "My Lord, while appreciating fully the important changes introduced in the Bill now under consideration and while we are very thankful to the Government for these changes, I cannot help regretting that the Government should find it necessary to place permanently on the Statute-book a measure of so important a nature.

"It is no doubt the duty of all loyal subjects and right-thinking men to support the Government in any measures which are directed against sedition and anarchism; and this being so, all that I have to say in addition to my amendments is that since the condition of things has greatly improved during the last few years, as admitted by many high authorities, I hope the Government of India will be pleased to reconsider the decision to put this measure permanently on the Statute-book. The Governments of two Bengals and also the Hon'ble the Home Member having declared that the situation has greatly improved, it would not be too much to expect that in another five years' time the condition will be even much better. In view of this I humbly appeal to Your Excellency to make the measure a temporary one, say for a period of five years.

"In meeting this strong wish on the part of the people the Government has nothing whatever to lose, as this measure can be renewed any day the Government finds it necessary to do so. On the other hand, the Government would make it easier for almost all the non-official Members of this Council to accord their unstinted support to the present Bill.

"To take power permanently to impose restrictions on public meetings which cannot but stifle public opinion to a certain extent in the country seems to me quite incompatible with British justice and benevolence, specially when the Government of India has the proud privilege of having at its head so sympathetic a statesman as Your Excellency."

The Hon'ble NAWAB ABDUL MAJID: "My Lord, I support the Bill. I have already declared my opinion at Simla, when the question of the extension of the Seditious Meetings Act was brought forward, that the Bill should be made permanent. No doubt this measure is an exceptional measure, but in my opinion such a preventive weapon should always be ready at the hands of the Government. Three objections have been urged to this Bill. One is that it is not necessary to pass such a Bill; second, that it should not be made permanent; and third, that it casts a slur on Indians of this country. So far as the question of necessity is concerned, the past working of the Bill is a sufficient answer to that objection. The past working of the Bill has shown that the condition prevailing in this country at the time of the promulgation of the Act of 1907, and in fact before 1907, necessitated this measure. If I may speak of my own province, my Lord (I cannot say what was the condition of other provinces), agitators from different parts of India had gone to Allahabad and they were inciting the people. They were quite unbridled in their speeches, and the impressions they made on the public were such that they would have caused a great disturbance to the peace of the country. But since the promulgation of this Act, namely, from 1907, everything has quieted down. We do not hear those excitements, we do not hear those disturbing elements, that were in existence in those days. That is a good and sufficient answer for the necessity of the promulgation of such an Act. The next objection urged is that the Bill should not be made permanent. But it is forgotten that the Bill is nothing but a sort of preventive measure. The effect of the Bill is that it will prevent the people from falling into error, it will prevent them from falling into the hands of agitators, and thus save them from being guilty of the commission of offences. Criminal law may be a good thing in order to run down people who actually commit offences; but this Bill is solely a preventive measure which will prevent the people from committing breach of the law. I say that the promulgation of such a Bill is rather a good thing in order to save the people from falling into error and from falling into committing those offences which are punishable by criminal law. There are people who object to this Bill on the ground of the existence of criminal law. They ought to be thankful to Government that Government is going to pass such an Act which



will stop men from leaving the correct path. My Lord, it is those who are not well behaved that have to fear the Bill; those who do not realise the consequences of their action who must be afraid of this Bill. But those who are well behaved and who weigh the consequences of their action well, they should not fear it at all. The last objection urged to this Bill is that it will be a slur upon the whole Indian community. But when this objection is urged, it is forgotten that there is such a thing also in existence as criminal law in this country. There is in that criminal law provision for the punishment of the guilty, and the guilty only will feel the existence of such a criminal law. It is no slur upon the peaceful and well-behaved people. It touches only those who intend to commit breach of the law. My Lord, I say therefore that the existence of such a law is no slur upon the Indian people. I submit that all these objections are objections which are specious and sentimental only; these are not objections which meet the situation or are borne out by the circumstances of the case; and these objections, I submit, should not prevent Government from making this law a permanent addition to the Statute-book. With these words I support the Bill."

The Hon'ble MR. SACHCHIDANANDA SINHA: "My Lord, on the day that the Hon'ble the Home Member introduced this Bill, Your Excellency was pleased to observe that it would be open to Members of this Council to discuss to-day the principles underlying the Bill, as well as its details. Availing myself of that arrangement I desire to say, in the first place, a few words on the principle of the Bill. Now, it is not open to question that the measure under consideration is a curtailment of and a limitation on—be it in ever so mild a form—liberty of speech and of public association, which both are the indefeasible rights of all British subjects. This is so obvious that even an Anglo-Indian paper—a stout champion of the Bill—is obliged to admit that 'doubtless a sacrifice of a theoretical liberty of speech is involved in the acceptance of the new Act.' Even assuming, for the sake of argument, that the sacrifice involved is only of 'a theoretical liberty of speech,' the question, to my mind, is whether it was at all necessary for the Government to have come forward to press for such legislation, and that too of a permanent character, such as is contemplated by the Bill. It may be that temporary restraints on the rights of public speaking and association may be deemed necessary under exceptional political conditions of a country; but I take it to be a settled principle of legislation, in all countries with pretensions to a civilized system of administration, that no repressive measure, to provide against special political exigencies, should be allowed to remain on the Statute-book when the circumstances that might have justified it have passed away.

"If that principle be correct, as I respectfully submit it is, then the only question is whether the present conditions of India render any such legislation, as a permanent part of the Statute-book, necessary or desirable. Now, what is the present condition of the country compared to what it was in 1907, when the Seditious Meetings Bill was enacted? On this point the testimony of all competent and qualified observers is at one, that there has been a remarkable improvement in the general situation. Mr. Montagu, speaking last year, bore witness to that fact. Lord Minto, speaking some months later at the United Service Club at Simla, was equally emphatic in his declaration on this point. More recently—speaking in London—he has declared in no uncertain voice that 'political quiet now reigns throughout India.' His Honour Sir Edward Baker, speaking the other day at Motihari in Behar, is reported to have said that he honestly believed that an improvement had taken place in the general situation. And to go no further, even the Hon'ble the Home Member made an admission to the same effect in the course of his speech introducing the present Bill. It is thus clear on the highest official testimony that the India of 1911 is in this respect a different India from that of 1907. That being so, I confess I fail to see the expediency or the desirability of placing permanently on the Statute-book a measure like that under discussion.

"The Hon'ble the Home Member in justifying the introduction of the present Bill dwelt at some length on the deeds of the revolutionary party in India